



CLIENT CATEGORISATION AND REGULATORY PROTECTIONS

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1. INTRODUCTION

Scope

This document on Client Categorisation and Regulatory Protections sets out the regulatory requirements for these areas.

Specifically, this document, describes how Finalto Financial Services Ltd (“FFS”, “we” or “us”) classifies clients into the categories available under Applicable Laws and Regulations (as defined herein below) and what protections or loss of protections apply with the different client classifications.

This document forms part of the Customer Legal Documents Pack between FFS and any client or prospective client.

Our business activities

FFS enables clients to trade Contracts for Difference (“CFDs”) and Spread Betting (“SB”) via our online trading platforms. We effectively receive, transmit and execute clients’ orders in CFDs.

We always act as Principal (counterparty) to the trading of our clients.

We do not offer investment advice or portfolio management services. Our limited investment research is undertaken by third parties and is not addressed to any individual client for pursual. For clarity, our limited research also does not relate to any personal investment objectives of our clients.

This document relates solely to the client classifications we use when we provide the above services under our Client Agreement to Retail and Professional clients. This document does not cover to client classifications (including the Eligible Counterparty classification) when we provide any other services, such as hedging and risk mitigation services, to clients that may be regulated investment institutions or brokers.

2. THE LEGAL AND REGULATORY FRAMEWORK UNDER WHICH THIS DOCUMENT IS ISSUED AND IMPLEMENTED

This document is issued pursuant to, and in compliance with the provisions under Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on Markets in Financial Instruments (otherwise referred to as “MiFID II”) which replaced Directive 2002/92/EC and Directive 2011/61/EU. This document is also written in line with FCA Handbook provisions, specifically Conduct of Business Sourcebook (COBS) Chapter 3 on Client Categorisation (“FCA rules”) covering relevant Laws and Regulations of the United Kingdom that apply to us.

In this document, we collectively refer to the above as the “Applicable Law” or the “Law”.

3. PROFESSIONAL CLIENTS

Under Section 3.5 of the FCA rules, the following entities are regarded as “per se” professional clients in all investment services and activities and financial instruments:

- (i) entities which are required to be authorised or regulated to operate in the financial markets, including organisations such as credit institutions, investment firms, other authorised or regulated financial

institutions, insurance companies, collective investment schemes and their management companies, pension funds and their management companies; commodity and commodity derivative dealers, local authorities, any other institutional investors; *or*

- (ii) for MiFID or equivalent third country business, a large undertaking which meets two of the three following size requirements on a company basis:
 - i. a balance sheet is equal to or exceeds EUR 20,000,000;
 - ii. a net turnover is equal to or exceeds EUR 40,000,000; or
 - iii. own funds equal to or exceeds EUR 2,000,000; *or*
- (iii) in relation to business that is not MiFID or equivalent third country business, a large undertaking meeting any of the following conditions:
 - a. a body corporate (including a limited liability partnership which has (or any of whose holding companies or subsidiaries has) (or has had at any time during the previous two years) called up share capital or net assets of at least £5 million (or currency equivalent at the relevant time);
 - b. an undertaking that meets (or any of whose holding companies or subsidiaries meets) two of the following tests:
 - i. a balance sheet total of EUR 12,500,000;
 - ii. a net turnover of EUR 25,000,000;
 - iii. an average number of employees during the year of 250;
 - c. a partnership or unincorporated association which has (or has had at any time during the previous two years) net assets of at least £5 million (or currency equivalent at the relevant time) and calculated in the case of a limited partnership without deducting loans owing to any of the partners;
 - d. a trustee of a trust (other than an occupational pension scheme, SSAS, personal pension scheme or stakeholder pension scheme) which has (or has had at any time during the previous two years) assets of at least £10 million (or currency equivalent at the relevant time) calculated by aggregating the value of the cash and designated investments forming part of the trust's assets, but before deducting its liabilities;
 - e. a trustee of an occupational pension scheme or SSAS, or a trustee or operator of a personal pension scheme or stakeholder pension scheme where the scheme has (or has had at any time during the previous two years):
 - i. at least 50 members;
 - ii. assets under management of at least £10 million (or currency equivalent at the relevant time)
- (iv) a national or regional government, public body that manages public debt, central banks, international or supranational institution (such as the World Bank, the IMF, the ECB, the EIB or other similar international organisation).
- (v) another institutional investor whose main activity is to invest in financial instruments (for MiFID or equivalent third country business) or designated investments (in relations to the firm's other business). This includes entities dedicated to the securitisation of assets or other financing transactions.

4. ELECTIVE PROFESSIONAL CLIENT

A client, other than a local public authority or municipality, will be treated as an "elective" professional client, only at their request, and if we comply with 4.(1) and 4.(3) and, where applicable, 4.(2):

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- 1) the client can evidence retention of the minimum requirements that we require in relation to expertise, knowledge and experience of trading in complex financial instruments (otherwise known as the “qualitative test”). Our adequacy assessment of these observable client actions provides us with reasonable assurance that the client can make their own investment decisions and understand the risks involved in such activity;
- 2) in relation to MiFID/third country business, two of the below are satisfied (otherwise known as the “quantitative” test):
 - a. the client has carried out transactions on the relevant market at an average frequency of 10 per quarter over the past four quarters;
 - b. the size of the client’s financial instrument portfolio (defined as including cash deposits and financial instruments) exceeds EUR 500,000;
 - c. the client works or has worked in the financial sector for at least one year in a professional position, in which requires knowledge of the transactions or services envisaged; and

We reserve the right to request independent documentary evidence to support the above criteria. We will not permit clients to receive the elective classification to “professional” client if these criteria are not met.

- 3) the following procedure is followed:
 - a. the client states in writing to us that they wish to be treated as a “professional” client, either generally or in respect of a particular service or transaction, or type of transaction or product;
 - b. we give the client a clear written warning of the protections and investor compensation rights that the client may lose as a result of their reclassification request; and
 - c. the client states in writing, in a separate document from the contract, that they are aware of the consequences of losing such protections.

5. ELIGIBLE COUNTERPARTIES

An eligible counterparty can be either a “per se” eligible counterparty or an “elective” eligible counterparty.

Per se eligible counterparty

Each of the following is a “per se” eligible counterparty (including an entity that is not from the UK that is equivalent to any of the following) unless and to the extent it is given different categorisation:

- 1) an investment firm;
- 2) a credit institution;
- 3) an insurance company;
- 4) a collective investment scheme authorised under the UK provisions which implemented the UCITS Directive or its management company;
- 5) a pension fund or its management company;
- 6) another financial institution authorised or regulated under the law of the UK;
- 7) a national government or its corresponding office, including a public body that deals with public debt at national level;
- 8) a central bank; and
- 9) a supranational organisation.

Elective eligible counterparty

We may treat a client as an elective eligible counterparty if:

- 1) the client is an undertaking and:

- a) is a per se professional client (except for a client that is only a per se professional client because it is an institutional investor under COBS 3.5. R(5)) and, in relation to business other than MiFID or equivalent third country business:
 - i. is a body corporate (including a limited liability partnership) which has (or any of whose holding companies or subsidiaries had) called up share capital of at least £10 million (or its equivalent in any other currency at the relevant time); or
 - ii. meets the criteria in the rule on meeting two quantitative tests (FCA rules, COBS 3.5.2 R(3)(b)); or
- 2) We have, in relation to MiFID or equivalent third country business, obtained explicit confirmation from the prospective counterparty that it has agreed to be treated as an eligible counterparty.

The categories of elective eligible counterparties include an equivalent undertaking that is not from an EEA State provided the above conditions and requirements are satisfied.

6. RETAIL CLIENTS

From 31 July 2023, firms that offer active products and services to retail clients must comply with FCA guidelines set out under the Consumer Duty “the Duty” rules. The Duty introduces a new Consumer Principle which requires firms to act to deliver good outcomes for retail customers. The Principle is supported by cross-cutting rules and consumer outcomes that the FCA expects firms to be able to evidence compliance with.

Our Markets.com division is in scope of the Duty. The Duty rules do not generally apply to retail clients who have opted up to be treated as elective professional, however in line with FCA COBS 3.5 rules, we will be applying Duty provisions to the extent where processes related to determining such client’s status in this respect are concerned. We will also apply the Duty rules to all retail clients (including non-UK based) across the division. This decision is subject to change through the course of regular and ongoing monitoring or compliance assessments with the Duty.

A retail client is any client who does not satisfy the criteria to qualify as a professional client or eligible counterparty.

As part of our “treating customers fairly” policy, we may decide, either as result of the Law, or any other regulatory Directive or guidance note or under internal policy, to sub categorise retail clients, into categories such as “experienced retail clients” and “less experienced retail clients”.

Such subcategories do not affect the classification or protections afforded to retail clients under the Law.

The subcategories will be subject to the benefits or restrictions we may place to further enhance the protection afforded to such clients. Further benefits may include (not limited to) restrictions to leverage levels, margin requirements, specific risk warning acknowledgment. Relevant details of the protections will always be included in our Investment Services Agreements.

7. REQUEST FOR DIFFERENT CATEGORISATION

A retail client has the right to request to be re-classified as a “professional client”, as per section 4 of this document. This also means they will be granted a lower level of regulatory protection.

A professional client or a eligible counterparty has the right to request to be re-classified as a “retail client” to obtain a higher level of regulatory protection. However, it is the responsibility of the client, to request a higher level of protection

when it deems it is unable to properly assess or manage the risks involved in trading in complex financial instruments.

Where an eligible counterparty requests treatment as a client whose business with us is subject to FCA COBS protections, but does not expressly request treatment as a retail client, we shall treat that eligible counterparty as a professional client. If an eligible counterparty requests treatment as a retail client, we shall treat the eligible counterparty as a retail client, applying the provisions in respect of non-professional treatment specific in paragraph 4 of Schedule 1 to Regulation (EU) No 600/2014. The request should be made in writing and shall indicate whether the treatment as retail client or professional client refers to one or more investment services or transactions, or one or more types of transaction or product.

If, in relation to MIFID or equivalent third country business, a per se professional client requests treatment as a retail client, the client will be classified as a retail client if they enter into a written agreement with us to the effect that it will not be treated as a professional client or eligible counterparty for the purposes of the applicable COBS regime. This agreement must specify the scope of the re-categorisation, such as whether it applies to one or more particular services or transactions, to one or more types of product or transaction or to one or more rules.

Before deciding to accept any of the above requests, we will take all reasonable steps to ensure that the client meets the relevant criteria of the category of their request. Upon receipt of a re-categorization request, we shall inform the Client, in writing, about the rights and protections of the different categorisation and about any limitations to the level of client protection that new category would entail.

Before services are provided, new clients will be notified of how FFS have categorised them. Clients will also receive a link to the "Client Agreement" which advises new clients of their rights to request recategorisation. We reserve the right to decline a client's requests for different categorisation. We also reserve the right to re-categorize a client in line with provisions in accordance with FCA Principle 7 (communications with clients) and will notify the respective client of its new category accordingly. If we already have an agreement with the client, we will also consider any contractual requirements concerning the amendment of that agreement and notify the client of changes to the limits of protection.

The ways in which a client may be provided with additional protections under this section include re-categorisation:

- On a general basis; or
- On a trade-by-trade basis; or
- In respect of one or more specified rules; or
- In respect of one or more particular services or transactions; or
- In respect of one or more types of product or transaction.

Re-categorising a client as a retail client under this section does not necessarily mean it will become an eligible complainant under DISP.

8. TYPES OF CLIENT CLASSIFICATION AND THE DIFFERENCES IN PROTECTION

Retail clients are entitled to the highest level of regulatory protection. In line with the FCA COBS rules, a retail client will be given additional information and disclosures with regards to our services, such as information in relation to (not limited to) fees and charges, services, costs and commissions.

FFS ensures that client instruments and funds are safeguarded from our "own funds" in the appropriate manner. Segregation of client money into separate client accounts ensures that in the event FFS becomes insolvent, client funds held in the segregated accounts are returned to the clients of the business, without the administrators' cost in handling and distributing these funds being applied to the client accounts. Segregated accounts are treated as recoverable assets

by general creditors of FFS.

Private retail clients also retain the right to refer their complaints to the Financial Ombudsman (FOS) and may also benefit from the maximum protections available under the Financial Services Compensation Scheme (FSCS). Not all retail clients are eligible.

A professional clients will be entitled to fewer protections than they would be entitled to as a retail client. In particular;

- a. Professional clients may lose more general protections, e.g. you may not be offered negative balance protection, or your margin close on account level does not need to be minimum 50%;
- b. a professional client may lose their right to refer complaints to either the FCA and/or the FOS;
- c. when providing a professional client with “best execution”, we are not required to prioritise the overall costs of the transaction as being the most important factor in achieving best execution for professional clients;
- d. We may not choose to treat professional clients in the same way as we would retail clients based on Consumer Duty provisions;
- e. We are not required to perform an appropriateness assessment and will assume the client has the necessary knowledge and experience, and;
- f. Under FCA Product Intervention rules, leverage does not need to be restricted in the way it would for retail clients.

An eligible counterparty client will be entitled to even fewer protections under the Law than a professional client. In addition to fewer protections applied to professional clients, they are:

- a. an eligible counterparty will be given fewer information disclosures with regard to the fees or commissions that FFS receives or pays;
 - b. where FFS assesses whether a product or service is appropriate for the clients, we can assume that the eligible counterparty has the necessary level of knowledge and experience to understand the risks involved in it;
 - c. FFS is not required to provide an eligible counterparty with risk disclosures on the products or services that they select;
 - d. FFS is not required to provide an eligible counterparty with best execution, while executing its orders;
 - e. FFS are not required to provide an eligible counterparty with periodic statements as frequently or with as much detail as for retail clients;
- FFS is not required to provide an eligible counterparty with information about the company, its services and the arrangements through which the Company will be remunerated.