



## Client Categorisation Policy

# CLIENT CATEGORISATION POLICY

## 1. Introduction

Trading Point of Financial Instruments UK Limited, trading under the name “Trading.com”, is a UK Investment Firm (registration number 09436004), regulated by the Financial Conduct Authority (“FCA”) under license number 705428 (hereinafter (“the Company”, “we”, “our” or “us”).

The Company is operating under Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments amending Directive 2002/92/EC and Directive 2011/61/EU, as the same may be in force from time to time and modified or amended from time to time (the “Markets in Financial Instruments Directive (2014/65/EU)” or “MiFID II”).

## 2. Categorisation Criteria

Following the implementation of MiFID II in the European Union, the Company is required to categorise its Clients into one of the following three categories: Retail, Professional or Eligible Counterparty. Each category has a different level of protection afforded to it. In this respect, new Clients shall be notified of their categorisation category and prior to the provision of services by the Company, the Clients shall be informed in a durable medium of:

- a) their right to request a different categorisation; and
- b) any limitations to the level of client protection that such a different categorisation would entail.

As part of the Company’s account opening procedure, the Company conducts an appropriateness test where the Client is asked a number of questions to enable the Company to assess the Client’s experience and knowledge of trading for the requested trading account the Client wish to open.

The Company will automatically categorise all Clients as a Retail Clients as notified to the Client within the Company’s Client Agreement.

If the Client wishes to be re-classified then the Client should contact the Company in writing with his/her re-categorisation request for the Company’s consideration and review. The Company reserves the right to review the Client’s categorisation from time to time and may re-categorise the Client if necessary.

The categorisation criteria set by the relevant legislation for Clients are as follows:

### 2.1. Retail Client

A Retail Client is a client who is not a Professional Client or an Eligible Counterparty. Generally, a Retail Client is not considered to have relevant or sufficient experience for investment business.

### 2.2. Professional Client

A client that is either a Per se Professional Client or an Elective Professional Client. Professional Clients are Clients who possess the experience, knowledge and expertise to make their own investment decisions and properly assess the risks involved.

The entities falling under the category of Per se Professional Clients are considered to be professionals in relation to all investment services and activities and financial instruments. The Clients falling under the category of Elective Professional Clients may be treated as professionals generally or in respect of a particular investment service or transaction, or type of transaction or product.

Professional Clients are responsible for keeping the Company informed about any change, which could affect their current categorisation. Should the Company become aware that the Client no longer fulfils the initial conditions which made him/her eligible for a professional treatment, the Company will take appropriate action. Where the appropriate action involves re-categorising the Client as a Retail Client, the Company must notify that Client of its new categorisation.

### **2.2.1. Per se Professional Client**

A Per se Professional Client can fall under any of the following categories (a – e):

- a) An entity required to be authorised or regulated to operate in the financial markets. The following list includes all authorised entities carrying out the characteristic activities of the entities mentioned, whether authorised by an EEA State or a third country and whether or not authorised by reference to a directive:
- Credit Institutions;
  - Investment Firms;
  - Other authorised or regulated financial institutions;
  - Insurance Companies;
  - Collective Investment Schemes and/or the management company of such schemes;
  - Pension funds and/or the management company of such funds;
  - Commodity and commodity derivatives dealers;
  - A local;
  - Other Institutional Investors (like Portfolio Investment Company).
- b) In relation to MiFID or equivalent third country business, a large undertaking meeting two of the following size requirements on a company basis:
- balance sheet total of EUR 20,000,000 or more;
  - net turnover of EUR 40,000,000 or more;
  - own funds of EUR 2,000,000 or more;
- c) In relation to businesses that is not MiFID or equivalent third country business, a large undertaking meeting any of the following conditions:
- 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);
  - an undertaking (or any of whose holding companies or subsidiaries meets) that 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.
  - 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;
  - 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;
  - 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).
- d) 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.
- e) Another institutional investor whose main activity is to invest in financial instruments, including entities dedicated to the securitisation of assets or other financing transactions.

### **2.2.2. Elective Professional Client**

The Company may treat a client as an Elective Professional Client if points (a) and (c) are met and where applicable (b):

- a) the Company undertakes an adequate assessment of the expertise, experience and knowledge of the client that gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is

capable of making his/her own investment decisions and understanding the risks involved (the "qualitative test");

- b) in relation to MiFID or equivalent third country business in the course of that assessment, at least two (2) of the following criteria are satisfied (i.e. quantitative test):
- The Client has carried out transactions, in significant size, on the relevant market at an average frequency of ten (10) per quarter over the previous four quarters;
  - The size of the client's financial portfolio exceeds EUR 500,000; and
  - The client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the products to be traded.

In conjunction with the points herein above, *local authorities and municipalities*, which are Retail Clients, may be allowed to waive some of the protections offered by the code of conduct rules by requesting their re-categorisation and opting-up to Professional Clients status, provided they satisfy the criteria of the following quantitative test:

- The size of the client's financial portfolio exceeds £10 million; and
  - either:
    - The Client has carried out transactions, in significant size, on the relevant market at an average frequency of ten (10) per quarter over the previous four quarters;
    - The person authorised to carry out transactions on behalf of the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the products to be traded;
  - The Client is subject to the Local Government Pension Schemes ("LGPS") for their pension administration business.
- c) The following procedure is followed:
- The Client must state in writing to the Company that it wishes to be treated as a Professional Client either generally or in respect of a particular service or transaction or type of transaction or product;
  - The Company must give the client a clear written warning of the protections and investor compensation rights the client may lose; and
  - The client must state in writing, in a separate document from the contract, that it is aware of the consequences of losing protections.

If the client is an entity, the qualitative test should be performed in relation to the person authorised to carry out transactions on its behalf. The fitness test applied to managers and directors of entities licensed under directives in the financial field is an example of the assessment of expertise and knowledge involved in the qualitative test.

Before deciding to accept a request for re-categorisation as an Elective Professional Client a firm must take all reasonable steps to ensure that the client requesting to be treated as an elective professional client satisfies the qualitative test and, where applicable, the quantitative test.

An elective professional client should not be presumed to possess market knowledge and experience comparable to a per se professional client.

## 2.3. Eligible Counterparty

A client that is either a Per se Eligible Counterparty or an Elective Eligible Counterparty.

### 2.3.1. Per se Eligible Counterparty

Each of the following is a Per se Eligible Counterparty (including an entity that is not from an EEA state that is equivalent to any of the following) unless and to the extent it is given a different categorisation under COBS 3.6:

- Credit Institution;
- Investment Firm;
- Insurance Company;
- Collective Investment Scheme authorised under the UCITS Directive or its management company;
- Pension fund or its management company;
- Another financial institution authorised or regulated under European Community legislation or the national law of

- an EEA state (e.g. regulated institutions in the securities, banking and insurance sectors);
- A national government or its corresponding office, including a public body that deals with the public debt at national level;
- A central bank; and
- A supranational organisation;

### **2.3.2. Elective Eligible Counterparty**

The Company 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 3.5.2 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 has) 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 (COBS 3.5.2 R (3) (b)); and
  - (2) The Company has, in relation to MiFID or equivalent third country business, obtained express confirmation from the prospective counterparty that it agrees to be treated as an eligible counterparty either generally or in respect of one or more investment services or a transaction or type of transaction or product.

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.

### **3. Request for Different Categorisation**

A retail client has the right to request to be re-classified as a “professional client” (see section 2.2.2.), in which case, he/she will be afforded a lower level of protection. The Company is not obliged to deal with him/her under a different classification.

The Company may allow a Professional Client or an Eligible Counterparty to request re-categorisation as a client that benefits from a higher degree of protection.

The Company will therefore notify a client that is categorised as a Professional Client or an Eligible Counterparty of its right to request a different categorisation whether or not the Company will agree to such requests. However, the Company need only notify a client of a right to request a different categorisation involving a lower level of protection if it is prepared to consider such requests.

It is the responsibility of a Professional Client or Eligible Counterparty to ask for a higher level of protection when he/she/they deems he/she/they are unable to properly assess or manage the risks involved.

The Company may, either on its own initiative or at the request of the client concerned:

- treat as a Professional Client or a Retail Client a client that might otherwise be categorised as a Per se Eligible Counterparty;
- treat as a Retail Client a client that might otherwise be categorised as a Per se Professional Client;

and if it does so, the client will be re-categorised and informed accordingly.

If a Per se Eligible Counterparty requests treatment as a Client whose business with the firm is subject to conduct of business protections, but does not expressly request treatment as a Retail Client and the firm agrees to that request, the firm must treat that Eligible Counterparty as a Professional Client.

If, in relation to MiFID or equivalent third country business a Per se Professional Client or a Per se Eligible Counterparty requests treatment as a Retail Client, the client will be classified as a Retail Client if it enters into a

written agreement with the firm to the effect that it will not be treated as a Professional Client or Eligible Counterparty for the purposes of the applicable conduct of business 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.

In accordance with Principle 7 (communications with clients) if the Company at its own initiative re-categorises a client in accordance with this section, it should notify that client of its new category under this section. If the Company already has an agreement with the client, it should also consider any contractual requirements concerning the amendment of that agreement.

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 the FCA's DISP rules.

## 4. Protection Rights

### 4.1. Main Protection Differences based on Client's Categorisation

4.1.1. Retail Clients will be afforded with the highest level of protection in relation to the FCA regulatory system, more than a Professional Client or Eligible Counterparty. The protections lost and/or restricted in relation to Professional Clients include, among others:

- a) The simplicity and frequency in which the Company communicates with Professional Clients may be different to the way in which it communicates with Retail Clients. Although the Company will ensure that any communication/information towards all of its Clients remains fair, clear and not misleading, it is not obliged to comply with the rules relating to restrictions on and the required contents of the information that needs to be communicated. The Company is required to provide additional information in relation to transactions in complex financial instruments to Retail Clients, including detailed risk warnings and notices, but not required to do the same for Professional Clients.
- b) The type of information that the Company provides to Retail Clients about itself, its services and its products and how it is remunerated differs to what the Company provides to Professional Clients. In particular:
  - i. the Company is obliged to provide information on these areas to all Clients but the granularity, medium and timing of such provision may be less specific for Clients that are not Retail Clients;
  - ii. there are particular restrictions on the remuneration structure for staff providing services to Retail Clients which may not be applicable in respect of staff providing services to Professional Clients; and
  - iii. the information which the Company provides in relation to costs and charges for its services and/or products may not be as comprehensive for Professional Clients as it would be for Retail Clients.
- c) When handling orders on behalf of Retail Clients, the Company has an obligation to inform them about any material difficulties in carrying out the orders. This obligation may not apply in respect of Professional Clients.
- d) When providing Professional Clients with best execution, the Company is not required to prioritise the overall consideration, i.e. price and costs of the transaction, as being the most important factor in achieving best execution (i.e. price is an important factor but the relative importance of other different factors, such as speed, costs and fees may vary). Apart from cases where you give us with specific instructions, we will provide you with

best execution as defined by the Law, regardless of your categorisation. Please read our Order Execution Policy (published on our website) which sets out the basis upon which we seek to provide best execution.

- e) The Company is required to assess whether its products are appropriate when the latter relate to a Retail Client (“assessment of appropriateness”). However, in respect to Professional Clients, the Company is entitled to assume that they have the necessary level of knowledge, experience and expertise to understand the risks involved in a transaction in products and services for which they are classified as a Professional Client. Notwithstanding the latter, Elective Professional Clients shall not be assumed to possess the said necessary level of knowledge, experience and expertise as is the case for the Per Se Professional Clients.
- f) In relation to the Company’s reporting obligations towards Clients, the timeframe for providing confirmation that an order has been carried out is more rigorous for Retail Clients’ orders than Professional Clients’ orders.
- g) The Financial Services Compensation Scheme (‘FSCS’) is the UK’s compensation fund of last resort for clients of authorised financial services firms, such as the Company. This means that FSCS can pay compensation to consumers should the Company become insolvent or ceases trading. Compensation limits are per person, per firm and per claim category and can be found on the FSCS website at <http://www.fscs.org.uk/>, along with additional information on this. For investments, the FSCS can cover 100% of eligible investments up to a limit of £85,000.
- h) In the event the Company’s bank holding client money on behalf of the Company goes into liquidation, the client’s money will not be affected since the bank acknowledges via the acknowledged letter which is signed beforehand that this is a client money account and the bank has no right against such funds.
- i) Professional Clients are afforded significantly fewer protections under the FCA regulations than those afforded to Retail Clients. Professional Clients may lose their right to refer complaints to either the FCA or the FOS. Some Professional Clients and Eligible Counterparties such as large institutions and FCA regulated Firms will not be considered as an eligible complainant for referrals to the FOS. In addition they may lose their right to seek compensation from the FSCS in the event that the Company is unable to meet its obligations.
- j) The Company owes a higher duty of liability towards Retail Clients than to Professional Clients.
- k) The requirements under the applicable FCA’s Client Assets (‘CASS’) rules are more prescriptive and provide more protection in respect of Retail Clients than in respect of Professional Clients. However, we will treat your money as Client Money in accordance with the applicable Client Money rules, regardless of your categorisation, unless we have agreed otherwise in writing.

4.1.2. Where the Company treats the Client as an Eligible Counterparty, the Client will be entitled to less protection under the Law than they would be entitled to as a Professional Client. In particular, and in addition to the above:

- a) The Company is not required to provide Eligible Counterparties with best execution when executing their orders.
- b) The Company is not required to disclose to such Clients any information regarding any fees or commissions that the Company pays or receives.
- c) The Company is not required to assess the appropriateness of a product or service that it provides to such Clients but may assume that they have the expertise to choose the most appropriate product or service for him/her/them and that he/she/they is/are able financially to bear the risks that are consistent with his/her/its investment objectives;
- d) The Company is not required to provide such Clients information about the Company, its services and the arrangements through which the Company is remunerated.

- e) The Company is not required to provide such Clients with risk disclosures on the products or services offered that he/she/they select/s.
- f) The Company is not required to provide reports to Eligible Counterparties on the execution of his/her/their orders.