

## RE-CATEGORISATION OF CLIENT AS PROFESSIONAL CLIENT UPON REQUEST

### CLIENTS WHO MAY BE TREATED AS PROFESSIONALS ON REQUEST

The client other than a professional client mentioned in Part I of the Second Appendix of Law 87(I)/2017, including public sector bodies, local public authorities, municipalities and private individual investors, may be permitted to waive some of the protections afforded by the conduct of business rules of the IF.

#### 1. Identification Criteria

The IF shall be allowed to treat any of those clients as professionals provided the relevant criteria and procedure mentioned below are fulfilled. Such clients shall not, however, be presumed to possess market knowledge and experience comparable to that of the professional clients of Part I of the Second Appendix of Law 87(I)/2017.

Any such waiver of the protection afforded by the standard conduct of business regime shall be considered valid only if an adequate assessment of the expertise, experience and knowledge of the client is undertaken by the IF which gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client or, in the case of a legal entity, its managers and directors, are capable of making their own investment decisions and understanding the risks involved.

The IF shall apply assessments of expertise and knowledge equivalent to the fitness test applied to managers and directors of entities licensed under Directives of the European Union in the financial field as the IF deems fit. In the case of clients which are small entities, the person subject to that assessment shall be the person authorised to carry out transactions on behalf of the client.

In the course of the above assessment, as a minimum, two of the following criteria should be satisfied:

- the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters,
- the size of the clients' financial instrument portfolio, defined as including cash deposits and financial instruments exceeds €500 000,
- the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.

It should be noted that even if two of the above criteria are met, **the IF is not obliged to treat the client as a professional client**. The IF reserves the right, in addition to considering the above criteria, to further undertake a proper assessment of the clients' expertise, experience and knowledge (as explained above) and only if it is reasonably satisfied that the client is capable of making investment decisions on his own, and to understand the dangers involved, may take the decision to treat such client as a professional client.

## **2. Procedure**

The client defined above may waive the benefit of the detailed rules of conduct only where the following procedure is followed:

- the client must state in writing to the IF that he wishes to be treated as a professional client, either generally or in respect of a particular investment service or transaction, or type of transaction or product,
- the IF will give the client a clear written warning of the protections and investor compensation rights he may lose,
- the client shall state in writing, in a separate document from the contract that the client is aware of the consequences of losing such protections.

Before deciding to accept the client's request for waiver, the IF may take all reasonable steps to ensure that the client requesting to be treated as a professional client meets the relevant requirements stated above in **Section 1** (Identification Criteria). It is expected that the client submitting such a request will be in a position to supply the IF with any relevant information or document that may be required.

Professional clients are responsible for keeping the IF informed about any change, which could affect their current categorisation. Should the IF become aware however that the client no longer fulfils the initial conditions, which made him eligible for a professional treatment, the IF may take appropriate action.