

## **CATEGORIZATION RULES OF BENCHMARK FINANCE CLIENTS**

1. (Supplemented by a decision of the Board of Directors dated 19.10.2021) This document defines the rules, criteria and procedures of BenchMark Finance, on the basis of which the investment intermediary categorizes its clients as non-professional, professional or acceptable counterparty. The rules have been prepared in accordance with the Markets in Financial Instruments Act (MFIA), which introduces into Bulgarian legislation the requirements of Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments and amending Directive 2002/92/EC and of Directive 2011/61/EU (MIFID II) and in accordance with the measures provided for in Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to the organizational requirements and conditions for carrying out activities by investment firms and for giving definitions for the purposes of that Directive (Delegated Regulation 2017/565).
2. BenchMark Finance notifies all its clients about the defining terms and criteria for professional or non-professional clients as well as the circumstances in which they may be designated as eligible counterparty by publishing the present Classification Rules for their website and distributing them on other appropriate means in accordance with the General Conditions and the applicable legislation.
3. Before signing a contract with a new client, BenchMark Finance categorize the client by applying the criteria according to Financial Instruments Market Act, Delegated Regulation 2017/565 and these Rules.
4. The categorization of clients shall be carried out ex officio on the basis of the information collected when submitting the request for opening a trading account. The categorization is done during the processing of the account opening request and before the conclusion of the contract. Clients are categorized into the following categories: retail (non-professional) client, professional client and eligible counterparty.
5. The Client shall be informed on a durable medium about the categorization and also of his/her right to request a change of the categorization. The Client has the right, after acquainting himself/herself with his/her initial official categorization, upon submission of the application, before signing the trading contract, to request a change of his/her categorization, in accordance with the criteria and requirements stipulated in these Rules.

## **I. Professional client**

6. A professional client is a client who has the experience, knowledge and skills to make investment decisions independently and to properly assess the risks associated with investing and who meets the criteria.
7. BenchMark Finance will, on its own initiative, categorize as professional the following categories of clients with respect to all investment services and activities and financial instruments, unless the client has explicitly requested other categorization:
  - 7.1. Clients who are regulated by the legislation of an EU member country, licensed clients or clients who have permission for doing activities on the financial markets:
    - credit institutions;

- investment intermediaries;
- other financial institutions that are licensed or regulated;
- insurance companies;
- companies for collective investment and their management companies;
- pension funds and pension insurance companies;
- persons who trade by occupation with goods or commodities;
- local companies;
- other institutional investors.

7.2. Large companies that meet at least two of the following conditions:

- balance number - at least 20 000 000 euro;
- net turnover - at least 40 000 000 euro;
- own funds - at least 2 000 000 euro.

7.3. National and regional government bodies, government bodies involved in government debt management, central banks, international and supranational institutions such as the World Bank, the International Monetary Fund, the European Central Bank, the European Investment Bank, and other similar international organizations.

7.4. Other institutional investors primarily engaged in investments in financial instruments including entities engaged in the securitization of assets or other financial transactions.

7.5. For categorization purposes according to point 7.1 - 7.4, BenchMark Finance categorizes clients as professional based on publicly available information (including Internet), public registers, official documents, licenses, permits, accessible financial statements. Where the publicly available information is insufficient, at the discretion of the Head of Regulatory Compliance, BenchMark Finance may request additional information from the client. Until such information is received, such client will be treated as a non-professional.

8. BenchMark Finance may categorize as a professional client all clients who request to be categorized as professional clients with experience, knowledge and skills to make independent investment decisions and who can properly evaluate the risks associated with an investment. The categorization may be for all products and investment services or particular ones. Clients who request to be categorized as professionals should meet at least two of the following criteria:

- (Amended by a decision of the Board of Directors of 14.09.2021) during the previous 4 quarters the person has concluded an average of 10 transactions per quarter with a significant volume on the relevant market. The investment intermediary determines the significant volume of the transaction on the respective market at least once a year on the basis of a report prepared by the head of the Risk Management Department according to the "Procedure for determining a significant volume of the transaction of BenchMark Finance";
- the size of the client's financial instrument portfolio, defined as including cash deposits AND financial instruments, exceeds EUR 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.

9. If a client requests to be categorized as a professional under point 8, BenchMark Finance applies the following procedure:

- The Client must request in writing to BenchMark Finance to be treated as a professional for all investment services and transactions, or for a particular type of transactions or investment products. The client must verify to BenchMark Finance the categorization criteria she meets by submitting documents, declarations, etc.
- BenchMark Finance assesses the client's knowledge and experience in terms of whether the client can make investment decisions and assume the risks associated with specific transactions and services. The appraisal is made also toward third persons who for example manage the client's investment portfolio or who carry out the respective transactions on behalf of the client;
- BenchMark Finance warns in writing the client that as a professional he will not be appropriately protected regarding the provision of services and activities by the investment intermediary, as well as he will not have the right to be compensated by the Investor Compensation Fund;
- The client declares in a document separate from the contract agreement that she has been informed about the consequences under the previous point.
- Before categorizing the client as a professional, BenchMark Finance takes the necessary steps to ensure that the client meets the requirements of point 8;
- BenchMark Finance makes the decision to classify the client as a professional;
- BenchMark Finance may refuse to categorize a client who formally has fulfilled the criteria under point 8, but after the evaluation, the Head of the Legal Compliance Department estimates that the client does not have enough experience, knowledge and skills to make investment decisions independently and also can not evaluate the associated risks properly.

10. Every professional client has the right to request a higher level of protection and to be categorized as a non-professional client whenever the client determines that she has no experience, knowledge and skills for making investment decisions independently and also is not able to manage and evaluate the risks involved by investing in financial instruments properly. The higher level of protection is provided on the basis of a written request from the client and a signed agreement between the investment intermediary and the client, explicitly stating whether the higher level of protection and the new categorization as non-professional client will apply to all investment services and activities and financial instruments, or to certain financial instruments.

11. Professional clients are responsible for informing BenchMark Finance about any change that might affect their categorization. If the investment firm subsequently determines that a client has ceased to meet the conditions under which he is categorized as a professional client, BenchMark Finance takes appropriate actions to re-categorize him as a non-professional.

## **II. Non-professional client**

12. BenchMark Finance categorize as non-professional any client who does not meet the criteria and conditions of Section I, item 6 as a professional client and the criteria and conditions of Section III as an eligible counterparty.

13. In order to protect the interests of non-professional clients, BenchMark Finance will not accept requests from such clients to be categorized and treated as eligible counterparties.

### **III. Eligible counterparty**

14. BenchMark Finance will consider and treat as eligible counterparty any investment firm, credit institution, insurance company, collective investment scheme, management company, pension insurance company, pension fund, pension insurance company, other EU licensed or regulated financial institutions, national governments, government bodies, governments, central banks and international institutions, as well as non-EU entities to whom requirements equivalent to those of the European Union law apply.

15. Other parties may also be considered as eligible counterparties that meet the requirements set out in Art. 71 of Delegated Regulation (EU) 2017/565 requirements, including third-country entities, as follows: companies that should be considered as professional clients in accordance with 7.1, 7.2 and 7.3 of these Rules.

16. Any person identified as eligible counterparty according to these rules and the applicable law, may explicitly request not to be treated in this way for all transactions or for a specific transaction.

17. (Amended by a decision of the Board of Directors of 19.10.2021) When an eligible counterparty requests treatment as a client against whom the requirements of Articles 71, para. 1, art. 72, 73, 74, 77, 78, 79, 82, 84, 85, 86, 87 and 88 of the Markets in Financial Instruments Act (transposing into Bulgarian law the provisions of Articles 24, 25, 27 and 28 of Directive 2014/65/EU), the request shall be made in writing and shall indicate whether the treatment as a retail client or a professional client relates only to specific orders, one or more transactions, or investment products, or relevant ancillary services directly related to those orders, transactions or products.

18. (Amended by a decision of the Board of Directors of 19.10.2021) When an eligible counterparty makes a request to be treated as a client against whom the requirements of Articles 71, para. 1, art. 72, 73, 74, 77, 78, 79, 82, 84, 85, 86, 87 and 88 of the Markets in Financial Instruments Act under the previous point, but did not request explicit treatment as a retail client, BenchMark Finance treats the eligible counterparty as a professional client.

19. (Amended by a decision of the Board of Directors of 19.10.2021) When an eligible counterparty explicitly requests treatment as a non-professional client, the investment intermediary may treat an eligible counterparty as a non-professional client, only if it explicitly agrees to provide the higher degree of protection for non-professional clients of the eligible counterparty.

20. In the case of an order from a client who is from another jurisdiction, BenchMark Finance consider whether the client is designated as eligible counterparty under the law of the client's country.

21. When making a transaction with or for an eligible counterparty under points 14 and 19, BenchMark Finance shall have the confirmation by the person that she agrees to be treated as an

eligible counterparty. Confirmation from the client can be given in the form of a principle agreement or for each individual transaction.

22. If a professional client wishes to be categorized as eligible counterparty, BenchMark Finance applies the following procedure:

- The Client must request in writing to BenchMark Finance to be treated as an eligible counterparty for all investment services or transactions or only for a particular type of transactions or investment products;
- BenchMark Finance warns in writing that the client will not be appropriately protected regarding the provision of services and activities by the investment intermediary, as well as he will not have the right to be compensated by the Investor Compensation Fund;
- The client declares in a document separate from the contract agreement that she has been informed about the consequences under the previous point.
- BenchMark Finance makes the decision to classify the client as an eligible counterparty. BenchMark Finance may refuse to categorize a client as an eligible counterparty.

23. Clients categorized as eligible counterparties are responsible for informing BenchMark Finance about any change that might affect their categorization. If the investment firm subsequently determines that a client has ceased to meet the conditions under which he is categorized as an eligible counterparty, BenchMark Finance takes appropriate actions to re-categorize the client as a professional or non-professional.

#### **IV. Protection of each individual client categories**

24. Non-professional clients use the highest standard of protection. Toward non-professional clients BenchMark Finance applies all general regulations applicable to BenchMark clients as well as the provisions in the Financial instruments market act (Article 73, Paragraph 2, Article 74, Paragraph 2, Article 78, Paragraph 5 and Paragraph 7, Article 82, paragraph 3, Article 84, paragraph 2, Article 95, Paragraph 1, etc.), the provisions in Delegated Regulation 2017/565 (Article 44, Paragraph 4, e), Article 48, Apr 3, Article 54, Paragraph 2, Article 57, Issue E, Article 62, Paragraph 2, Article 65, Paragraph 4, Article 66, Paragraph 9, Article 67 (1) (c), etc.) and the provisions in other national or European regulations.

25. Professional clients use a medium level of protection, with general provisions that apply to all clients, and there are almost no explicit specific provisions that apply only to them. BenchMark Finance applies the following rules to clients categorized as professional:

- BenchMark Finance has no obligations to provide information intended for non-professional clients about the investment services, financial instruments and products that the client intend to use;
- BenchMark Finance has the right to accept that a client categorized as a professional client for certain services or transactions or products, has sufficient experience, knowledge and skills to make investment decisions independently and understand the associated risks. BenchMark Finance has the right to accept that a client categorized as a professional client has the financial ability to bear all the investment risks associated with his investment goals;

- When executing the client's orders and taking all measures to achieve the best possible result for the client, BenchMark Finance is not obliged to place the total value of the transaction including the price of the financial instrument and all costs directly related to the execution (incl. execution venue, clearing and settlement fees, etc. paid to third parties involved in the execution) as the most important factor in achieving "best execution" price according to The policy for executing client orders;
- BenchMark Finance has no obligation to provide information to professional client about encountered significant difficulties regarding the correct and prompt execution of its orders;
- BenchMark Finance has the right to provide regular statements and reports with information about transactions to professional clients less frequently than non-professional clients;
- A client categorized as a professional is not entitled to compensation from the Investor Compensation Fund, while clients categorized as non-professional have this right under Article 77d, Paragraph 2 of the Public Offering of Securities Act

26. (Amended by a decision of the Board of Directors of 14.09.2021) Clients categorized as eligible counterparty have the lowest level of protection. BenchMark Finance, as an intermediary providing investment services, may enter into financial transactions with an acceptable counterparty without complying with the requirements of Art. 71, para. 1, Art. 72, 73, 74, 77, 78, 82, 84, 85, 86 and 87 of the Financial Instruments Markets Act in respect of specific orders or the related ancillary service directly related to those transactions. Apart from this, when an eligible counterparty falls within the scope of Art. 77d, para. 2 of the Public Offering of Securities Act, the Investor Compensation Fund does not pay compensation.

27. Where, in a provision of a regulation, general terms, contract, applicable rules, policies or procedures, it is not explicitly determined which category of customers it applies to, each of the three categories is considered to be equally relevant. If it is explicitly foreseen that some provisions will not apply or will, respectively, be applied to a particular category of clients (eg non-professional), then those provisions do not, respectively, apply to the other client categories for which they are not explicitly intended.

## **V. General provisions**

28. (Supplemented by a decision of the Board of Directors dated 19.10.2021) BenchMark Finance notifies new clients and existing clients, whom the investment intermediary has re-categorized in accordance with the requirements of the Markets in Financial Instruments Act for their categorization as a non-professional client, professional client or acceptable counterparty.

29. BenchMark Finance may, on its own initiative, ex officio at the initial categorization or at a later stage, or after request of the relevant client, treat the client as follows:

- to consider a client as a professional or non-professional who would otherwise be categorized as eligible counterparty for one or more investment services or transactions, or for one or more types of transactions or products;

- to consider a client as a non-professional who would otherwise or has already been categorized as a professional client for one or more investment services or transactions, or for one or more types of transactions or products.

## **VI. Final provisions**

30. (Supplemented by a decision of the Board of Directors of 19.10.2021) These Rules have been adopted on the basis of the Markets in Financial Instruments Act (MFIA), transposing into Bulgarian law the requirements of Directive 2014/65/EU of the European Parliament and of the Council on markets of financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MIFID II) and in accordance with the measures related to the categorization of clients provided for in Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 amending Directive 2014/65/EU of the European Parliament and of the Council as regards the organizational requirements and conditions for the conduct of business by investment firms and the definition of those Directives for the purposes of that Directive.

31. These Rules were adopted by the Board of Directors of BenchMark Finance on 15.05.2018 and shall enter into force on the date of their adoption. They abolish the Customer Categorization Procedure and Policy, as part of the BenchMark Finance Terms and Conditions Appendix.

32. These Rules are made available to BenchMark Finance employees and other contractors for information and enforcement. These Rules also apply to tied agents appointed by the investment firm.

33. If BenchMark Finance's clients have been categorized as professional by parameters and procedure similar to those under these Rules, then the legal relationship with these clients and BenchMark will not be affected and BenchMark may not re-categorize those clients.

34. The BenchMark Finance Board of Directors shall review and evaluate the compliance of these Rules with the services and activities performed by the investment firm at least once a year by January 31, adopting amendments and additions in case of incompleteness and/or need for improvement of the internal organization. Notwithstanding the preceding sentence, the Board of Directors shall adopt amendments to these Rules when necessary.

35. These Rules were amended by the Board of Directors of BenchMark Finance on 14.09.2021, and the amendments came into force on the date of adoption. Amended and supplemented in accordance with instructions given by the Financial Supervision Commission by a decision of the Board of Directors dated 19.10.2021, the amendments coming into force on the date of adoption.