



## **Client Categorisation Policy**

Version 7.0 - May 2023

## **I. Introduction:**

Capital Com SV Investments Limited (“we”, “CAPITAL.COM”, “the Company”), a Company authorised and regulated by the Cyprus Securities and Exchange Commission (License No. 319/17) with registered office at Vasileiou Makedonos 8, Kinnis Business Center, 1-3rd floor, 3040, Limassol, Cyprus, is required to categorise Clients, those to which the Company provides, intends to provide or has provided a service in the course of carrying on a regulated activity into one of the following three categories: retail, professional or eligible counterparty.

## **II. Legal Framework:**

The Company is operating under the provisions of the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on Markets in Financial Instruments and 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”), which was transposed into Cypriot Law, the Investment Services and Activities and Regulated Markets Law of 2017 (Law 87(I)/2017).

According to the above legislation, the Company is required to categorise its Clients into one of the following three categories: “retail”, “professional” or “eligible counterparty”. As a result, the Company should evaluate any application for opening an account and classify any prospective Client under any of the categories mentioned above, always based on the information provided by the said Client.

Special Statement for Residents of Spain. The Company trades CFDs. CFD is a product that is complex and difficult to understand. The National Securities Market Commission of Spain (Comisión Nacional del Mercado de Valores) has determined that, due to the complexity of the CFDs and the risks involved, the purchase of CFDs by retail investors is not appropriate/suitable. A CFD is also a leveraged product and the losses incurred may be the entire amount invested.

## **III. Notification to the Client for its categorisation:**

The Company, prior to the provision of services, shall notify new Clients of their categorisation. Further to this, through this Policy, the Company informs the Client of:

(a) any right that Client has to request a different categorisation (see Section V);  
and

(b) any limitations to the level of Client protection that such a different categorisation would entail (see Section VI).

The Company proceeds in this action, in order to offer a uniform level of protection to all of its Clients.

## **IV. Client Categorisation**

The Client categorisation criteria are outlined below.

### **a) Retail Clients**

A retail Client is a client who is not a professional Client nor an eligible counterparty.

### **b) Professional Clients**

A professional Client is a Client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs as per the requirements found under the Investment Services and Activities & Regulated Markets Law of the Republic of Cyprus, Law 87(I)/2017.

The following shall all be regarded as professionals in all investment services and activities and financial instruments for the purposes of the Law:

(1) Entities which are required to be authorised or regulated to operate in the financial markets. The list below shall be understood as including all authorised entities carrying out the characteristic activities of the entities mentioned: entities authorised by a Member State under a Directive of the European Union, entities authorised or regulated by a Member State without reference to a Directive, and entities authorised or regulated by a third country:

- a) a credit institution;
- b) an investment firm;
- c) other authorised or regulated financial institution;
- d) an insurance undertaking;
- e) a collective investment scheme and a management company of such scheme;
- f) a pension fund and a management company of such fund;
- g) a commodity and commodity derivatives dealer;
- h) a local;
- i) other institutional investor;

(2) A large undertaking meeting two of the following size requirements, on a proportional basis:

- balance sheet total at least EUR 20.000.000;
- net turnover at least EUR 40.000.000;
- own funds at least EUR 2.000.000;

(3) A national or regional government, public body that manage public debt, a central bank, an international and supranational institution such as the World Bank, the International Monetary Fund, the European Central Bank, the European Investment Bank and any other similar international organisations;

(4) Any other institutional investor whose main activity is to invest in financial instruments, including entities dedicated to the securitization of assets or other financing transactions.

The entities mentioned above are considered to be professionals. Sections V and VI provide detailed information with respect to client's right for recategorization and protection rights.

### **Clients who may be treated as professional on request:**

a) Identification criteria:

Clients other than those mentioned above, including public sector bodies, local public authorities, municipalities and private individual investors, may also be allowed to waive some of the protections afforded by the conduct of business rules of the Company.

The Company shall be allowed to treat any of the above Clients as professionals provided that the relevant criteria and procedures mentioned below are fulfilled. These Clients shall not, however, be presumed to possess market knowledge and experience comparable to that of the "by-default" categories listed above.

Any such waiver of the protection afforded by the standard conduct of business regime shall be considered valid only if an adequate assessment of expertise, experience and knowledge of the Client, undertaken by Company, gives reasonable assurance, in light of the nature of the transactions or services recommended, that the Client is capable of making his own investment decisions and undertaking the risk involved.

The fitness test to be undertaken by the Client, may be regarded as an example of the assessment of expertise and knowledge. In the case of corporate entities, the person subject to the above assessment should be the person authorised to carry out transactions on behalf of the Company.

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 of 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 and services envisaged.

b) Reclassification Procedure of a retail client into professional client:

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

- i. They must state in writing to the Company or apply through the Company's online forms that they wish to be treated as professional Clients, either generally or in respect to a particular investment service transaction or type or product;
- ii. The Company must give them a clear written warning of the protections and investor compensation rights that they may lose;
- iii. They must state in writing, in a separate document from the contract, that they are aware of the consequences of losing such protections.

Points (ii) and (iii) shall be performed through the Client's consent of the Elective Professional Clients Disclaimer available in Appendix A.

Before deciding to accept any request for waiver, the Company must take all reasonable steps to ensure that the Client requesting to be treated as a professional Client meets the relevant requirements stated in point (a) above.

However, if Clients have already been categorised as professionals under parameters and procedures similar to those referred to above, it is not intended that their relationships with the Company shall be affected by any new rules adopted pursuant to this policy.

Professional Clients are responsible for keeping the Company informed about any change, which could affect their current categorisation. Should the Company become aware however that the Client no longer fulfils the initial condition, which made him eligible for a professional treatment, the Company must take appropriate action.

## **c) Eligible Counterparties**

Certain authorised or regulated entities, governments, international financial institution, as well as exempted undertakings and firms that fall under the criteria for professional Clients mentioned points (a)-(c) above can be classified as eligible counterparties under the relevant laws and regulations.

The Company recognizes the existing overlap between the way professional Clients and eligible counterparties are defined in the relevant laws and regulations and will be addressing this issue on a case by case basis (if necessary).

### Transactions with Eligible counterparties:

In case that the Company receives and transmits orders on behalf of Clients, may bring about or enter into transactions with eligible counterparties without being obliged to comply with all regulatory requirements in respect of those transactions or in respect to any ancillary service directly related to those transactions.

The Company, when it enters into transactions with eligible counterparties, obtains the express confirmation from the prospective counterparty that it agrees to be treated as an eligible counterparty. This confirmation may be obtained either in the form of a general agreement or in respect of each individual transaction.

## **V. Option to Change Classification & Request For A Different Categorisation**

CAPITAL.COM recognises that Clients should be in general allowed to request to be placed into a different category other than retail. In accordance with the aforesaid, the following request may be submitted to the Company:

- a) A Retail Client requesting to be categorised as a Professional Client. In that case the Client will be afforded a lower level of protection.
- b) A Professional Client requesting to be categorised as a Retail Client. In that case the Client seeks to obtain a higher level of protection.

- c) An Eligible Counterparty requesting to be categorised as a Professional Client or Retail Client. In that case the Client seeks to obtain a higher level of protection.

The Company reserves the right to decline any of the above requests for different categorisation.

It is noted that an eligible counterparty or professional Client is allowed to request non-professional treatment and the Company may agree to provide a higher level of protection. Where the Client of the Company is an undertaking, the Company must inform it prior to any provision of services that, on the basis of the information available to the Company, the Client is deemed to be a professional Client, and will be treated as such unless the Company and the Client agree otherwise. The Company must also inform the Client that he can request a variation of the terms of the agreement in order to ensure a higher degree of protection.

In this respect, the Company notifies its Clients in a written form of their option to be classified as retail clients. The Company proceeds in this action, in order to offer a uniform level of protection to all of its clients.

The higher level of protection will be provided by the Company when the Client who is considered to be a professional enters into a written agreement with the Company, to the effect that it shall not be treated as a professional.

## **VI. Protection Rights**

Where the Company treats the Client as a retail Client, the Client will be entitled to more protections under the law than if the Client was entitled to be a professional Client. In summary the additional protections retail Clients are entitled to are as follows:

- a) Client will be given full, precise and easy to comprehend information/disclosures concerning CAPITAL.COM, its services and any investments, its cost, commissions, fees and charges and the safeguarding of Client financial instruments and Client funds;
- b) CAPITAL.COM will request the Client to provide information regarding his/her knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded so as to enable the Company to assess whether the investment service or product envisaged is appropriate for the Client. In case the Company considers, on the basis of the information received, that the product or service is not appropriate for the Client, the Company will alert the Client accordingly or reject the Client's application. For a professional Client the Company is entitled to assume that in relation to the products, transactions and services

for which the Client is so classified, the Client has the necessary level of experience and knowledge; In addition, under certain circumstances, the Company shall be entitled to assume that a professional Client is able financially to bear any investment risks consisted with its investment objectives.

- c) when executing orders CAPITAL.COM will take all reasonable steps to achieve what is called "best execution" of the Client's orders that is to obtain the best possible result for their Client as defined in the Company's Order Execution Policy. It is noted that Clients who are classified as professional Clients are also subject to the protections under the Best Execution Regime. However, the Company is not obliged to comply with this obligation with respect to eligible counterparties;
- d) CAPITAL.COM will inform Clients of material difficulties relevant to the proper carrying out of their order(s) promptly upon becoming aware of such difficulties;
- e) CAPITAL.COM will provide Clients with full and explicit information on the execution of the relevant Client orders;
- f) CAPITAL.COM will enter into the Terms & Conditions with the Client, that outline the essential rights and obligation of both parties;
- g) CAPITAL.COM will make adequate arrangements for financial instruments held on behalf of a Client to prevent their use by the Company for its own account by depositing them with a third party in manner that would make them identifiable from the Company's financial instrument held with that third party (if any) and identifiable from the financial instruments held by that third party as well;
- h) Retail Clients may be entitled to compensation under the Investor Compensation Fund for Clients of Investment Firms;
- i) CAPITAL.COM will make adequate arrangements to not use Client funds for its own account by depositing them entirely into segregated bank accounts;
- j) With respect to eligible counterparties, the Company is not obliged to comply with the conduct business obligations (including inter alia, information about costs, associated charges, assessment of appropriateness, specific reporting towards clients), and Client handling rules;
- k) Eligible counterparties and both "by-default" and elective professional Clients will not be offered negative balance protection, however the Company may, at its sole discretion, offer limited negative balance protection from time to time. Professional Clients and Eligible Counterparties will be responsible for making additional payments should their account fall into a negative balance. **Professional Clients and Eligible Counterparties could lose more than the sum they have invested when trading with the Company.**



## ➤ **Professional Clients:**

As also mentioned above, where the Company provides an investment service to a professional Client it shall be entitled to assume that, in relation to the products, transactions and services for which it is so classified, the Client has the necessary level of experience and knowledge. In addition, under certain circumstances, the Company shall be entitled to assume that a professional Client is able financially to bear any investment risks consisted with its investment objectives.

## General Provisions in respect of Professional Clients

- Clients who under Section IV were categorised as professional are allowed to request non-professional treatment and the Company may agree to provide a higher level of protection.
- In instances where the Client is an “undertaking”, the Company will inform such Client (prior to any provision of services that, on the basis of the information available to the Company, the Client is deemed to be a professional Client and will be treated as such unless otherwise agreed.
- The Client can request a variation of the terms of the agreement in order to secure a higher degree of protection.
- It is the responsibility of the professional Client to ask for a higher level of protection when it deems it is unable to properly assess or manage the risks involved.
- This higher level of protection will be provided when a Client who is considered to be a professional enters into a written agreement with the Company to the effect that it shall not be treated as a professional for the purposes of the applicable conduct of business regime. Such agreement shall specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.

## ➤ **Eligible Counterparties:**

- a. Where the Company treats the Client as an eligible counterparty, the Client will be entitled to fewer protections under the law than they would be entitled to as a professional Client. In particular, and in addition to the above:
- b. The Company is not required to provide the Client with the best execution of the Client's orders;
- c. The Company is not required to disclose to Client information regarding any fees or commissions that the Company pays or receives;
- d. The Company is not required to assess the suitability or appropriateness of a product or service that it provides to the Client but can assume

that the Client has the expertise to choose the most appropriate product or service and that Client is financially able to bear any investment risks consisted with their investment objectives;

- e. The Company is not required to provide the Client with information about the Company, its services and the arrangements through which the Company will be remunerated;
- f. The Company is not required to provide the Client with risk disclosures on the products or services that they select from the Company; and
- g. The Company is not required to provide reports to the Client on the execution of their orders or the management of their investments.

## **VII. Retail and Professional Client agreements**

The Company, by virtue of the recent MiFID II implementation, and as stated in Article 58 of the Commission Delegated Regulation (EU) 2017/565, hereby informs its Clients that agreements will be provided (i.e. the Company's Terms & Conditions), setting out the essential rights and obligations of both the Company and the Client.

## Appendix A

### Elective Professional Clients Disclaimer

#### 1. General

CAPITAL COM SV INVESTMENTS LIMITED (the "Company") is authorized and regulated by the Cyprus Securities and Exchange Commission ("CySEC") as a Cyprus Investment Firm (License No. 319/17). The Company is authorized to provide investment and ancillary services with regards to specific financial instruments as stated in its CySEC License.

This Elective Professional Clients Disclaimer (the "Policy") sets out important information for retail Clients who request to be classified as Professional. The policy needs to be read and understood in full, whilst for any enquiries, you may contact [support@capital.com](mailto:support@capital.com).

Retail Clients may be classified as Professional Clients when they meet at least two of the three following criteria:

- the Client seeking professional status 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 financial instrument portfolio of the Client seeking professional status, 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.

In terms of Law, Professional clients are those clients where we can assume that they have sufficient knowledge, experience and expertise to make their own investment decisions and understand the risks involved in trading with CFDs.

As a Professional Client you are responsible to inform us about any change, which could affect your current classification. In case of such change, please notify us in writing at the following e-mail address: [support@capital.com](mailto:support@capital.com) or notify your dedicated account manager

Should we become aware however that you no longer fulfill the initial conditions, which made you eligible for Professional Client treatment, we will take appropriate action.

You are entitled to demand at any time another classification, e.g. be re-categorised as a Retail Client and receive higher level of protection in terms of the regulations of the Law (see Part 2 below). In this case, please notify us in writing at the following e-mail address: [support@capital.com](mailto:support@capital.com) or notify your dedicated account manager. Such re-classification becomes effective after such request has been received and acknowledged by the relevant officer of our Compliance Department. For avoidance of doubt, such requests cannot be retroactively applied to trading transactions that have taken place before we have formally received and acknowledged such request.

## **2. Consequences of categorisation as Elective Professional**

Once categorised as a Professional Client, you will lose some of the regulatory protections which would have otherwise been available to you as a Retail Client. In particular, the following changes shall be applicable:

- **Appropriateness Test and understanding of risk:** We assume that you have sufficient knowledge and experience to understand and assess the risks of the relevant financial instruments and your transactions, therefore we will not provide you with any written risk warnings in relation to any of your transactions.

- Terms of Business: Our Terms & Conditions and Policies remain applicable to you to the extent they are not in conflict with your status as a Professional Client.
- Financial Promotions: Rules relating to financial promotions are limited or modified in their application to Professional Clients compared to Retail Clients. Financial promotions directed at Professional Clients' are only subject to the high level requirement that they are fair, clear and not misleading.
- CIF Client Compensation Fund Scheme: Only Retail Clients have access to Cyprus Investor Compensation Fund, in the case where we are unable to meet our obligations.
- Negative Balance Protection: The Company does not offer negative balance protection to Professional Clients, however may, at its sole discretion, offer limited negative balance protection from time to time. Professional Clients will be responsible for making additional payments should their account fall into a negative balance. **Professional Clients could lose more than the sum they have invested when trading with the Company.**

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