



Client Categorization Policy

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4 Theklas Lysiotti St, Harmony House, Office 31, 3rd floor, 3030 Limassol, Cyprus
Tel: +357 25 108 111, www.emsbrokers.com

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The Company's official language is the English language. Any other language translation of this Agreement is for informational purposes only and does not bind the Company or have any legal effect whatsoever, the Company having no responsibility or liability regarding the correctness of the information therein.

In case of any contradiction between the English and any other language version, the English version shall prevail.

1. Introduction

- 1.1 The Website of EMS Brokers is operated by FXNET Limited. FXNET Limited (hereinafter referred to as 'FxNet', the 'Company', the 'Firm', 'us', 'our') is a Cypriot Investment Firm (CIF) which is authorized and regulated by the Cyprus Securities and Exchange Commission ("CySEC"), under license number 182/12, incorporated and registered under the laws of the Republic of Cyprus (Certificate of Incorporation No. 300624), registered office at 4 Theklas Lysiote St, Harmony House, Office 31, 3rd floor, 3030 Limassol, Cyprus.

2. Scope

- 2.1 The Client Categorization Policy (the 'Policy') sets out the process and the procedure adopted by the Company for the categorization of its Clients in compliance with applicable laws and Regulations.
- 2.2 According to the Investment Services and Activities and Regulated Markets Law 87(I)/2017, as subsequently amended from time to time ("the Law"), the Company is required to categorize its Clients into one of the following three categories: retail, professional or Eligible Counterparty. Categorization is undertaken on the basis of objective criteria. A Client may be placed in different categories for particular investment services or transactions or types of transactions or products. The Company notifies each Client of his categorization as a Retail Client or Professional Client or, as the case may be, Eligible Counterparty.

It is stressed that different rules and different levels of protection apply to Clients depending on their categorization.

3. Definitions and Criteria for Categorization

3.1 Retail Client

- 3.1.1 The Retail Client is a Client who is not a Professional Client by default, as defined in paragraph 3.3 below. It is noted that Retail Clients are afforded with the highest level of protection.

3.2 Eligible Counterparty

- 3.2.1 Eligible Counterparty is a type of professional Clients, applicable only when the service provided to such Professional Client is of receiving & transmitting and/or executing Client orders and/or dealing on own account.

3.3 Professional Client

- 3.3.1 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. In case of Professional Clients, the Company must inform the 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 the Company and the Client agree otherwise. The Client may request a variation of the terms of the agreement in order to secure a higher degree of protection. The following entities that satisfy one or more of the following criteria shall be classified as Professional Clients by default:
- 3.3.1.1 Entities which are required to be authorized or regulated to operate in the financial markets such as:
- (a) Credit institutions
 - (b) Investment firms
 - (c) Other authorized or regulated financial institutions
 - (d) Insurance companies
 - (e) Collective investment schemes and management companies of such schemes
 - (f) Pension funds and management companies of such funds
 - (g) Commodity and commodity derivatives dealers
 - (h) Locals; firms which provide investment services and/or perform investment activities consisting exclusively in dealing on own account on markets in financial futures or options or other derivatives and on cash markets for the sole purpose of hedging positions on derivatives markets or which deal for the accounts of other members of those markets or make prices for them and which are guaranteed by clearing members of the same markets, where responsibility for ensuring the performance of contracts entered into by such firms is assumed by clearing members of the same markets.
 - (i) Other institutional investors
- 3.3.1.2 Large undertakings meeting two of the following size requirements on a proportional basis:
- (a) Balance sheet total of at least EUR 20,000,000
 - (b) Net turnover of at least EUR 40,000,000
 - (c) Own funds of at least EUR 2,000,000
- 3.3.1.3 National and regional governments, public bodies that manage public debt, 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.
- 3.3.1.4 Other institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitization of assets or other financing transactions.
- 2.3.2 The entities mentioned above are considered to be Professional Clients by default. So, where the Client fulfils one of the criteria referred to above, the Company shall inform the 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 the Company and the Client agree otherwise.

4. Protection Rights

4.1 The type of Client Categorization will determine the level of protection afforded to the Client under applicable legislation. A Retail Client is afforded with the highest regulatory protections available. The Company will notify the Client in writing to inform him/her of his/her loss of certain regulatory protection(s) prior to agreeing to a re-categorization request.

4.2 Retail Clients and Professional Clients

4.2.1 Where the Company treats a Client as Retail, the Client is entitled to more protections under the Law, than if the Client was treated as a Professional Client. In summary, the protections Retail Clients are entitled to are as follows (the list may not be exhaustive):

i. A Retail Client will be given more information/disclosures with regard to the Company, its financial instruments and their performance, the nature and risks of financial instruments, its costs, commissions, fees and charges and the safeguarding of Client financial instruments and Client funds, including summary details of any relevant investor compensation or deposit guarantee scheme, as applicable.

ii. Where the Company is providing the services of Reception & Transmission of orders and/or Execution of Client orders, the Company shall ask a Retail Client to provide information regarding his 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 to a Retail Client, it shall warn the Client accordingly. Please note that the Company is not required to assess appropriateness in certain cases specified by the Law 87(I)/2017 (for example but not limited to the situation where on an execution only basis the financial instrument concerned is not complex).

The Company shall be entitled to assume that a Professional Client, Elective Professional Client and/or an Eligible Counterparty has the necessary experience and knowledge in order to understand the risks involved in relation to those particular investment services or transactions, or types of transaction or product, for which the Client is classified as a Professional Client and/or an Eligible Counterparty.

Consequently, the Company should not generally need to obtain additional information from the Professional Client for the purposes of the assessment of appropriateness for those products and services for which the Client have been classified as a Professional Client, and/or an Eligible Counterparty.

iii. When executing Client orders, the Company must take all reasonable and sufficient steps to achieve what is called 'best execution' of the Client's orders, that is to obtain the best possible result for their Clients.

Where the Company executes an order on behalf of a Retail Client, the best possible result shall be determined in terms of the total consideration, representing the price of the financial instrument and the costs related to execution, which shall include all expenses incurred by the Client, that are directly related to the execution of the order, including execution venue fees, clearing and settlement fees and any other fees paid to third parties involved in the execution of the order.

When providing Professional Clients with best execution, the Company is not required to prioritize the overall costs of the transaction as being the most important factor in achieving best execution.

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 the Company provides, 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 consistent with its investment objectives.

- iv. The Company must inform Retail Clients of material difficulties relevant to the proper carrying out of their order(s) promptly upon becoming aware of the difficulty.
- v. The Company shall, when it proposes to provide portfolio management services to a Retail Client or potential Retail Client, provide the Client with such of the following information as is applicable:
 - a. information on the method and frequency of valuation of the financial instruments in the Client portfolio.
 - b. details of any delegation of the discretionary management of all or part of the financial instruments or funds in the Client portfolio
 - c. a specification of any benchmark against which the performance of the Client portfolio will be compared
 - d. the types of financial instrument that may be included in the Client portfolio and types of transactions that may be carried out in such instruments, including any potentially relevant limits
 - e. the management objectives, the level of risk to be reflected in the manager's exercise of discretion, and any specific constraints on that direction
- vi. Retail Clients may be entitled to compensation under the Investor Compensation Fund for Clients of Investment Firms, while Professional Clients are not entitled to compensation under the ICF.
- vii. Retail Investors¹ will be provided with negative balance protection and as such, may not lose more than the total amount deposited in their trading account(s). Professional Clients, Elective Professional Clients and/or Eligible Counterparties will not be provided with negative balance protection.
- viii. The Company cannot conclude title transfer financial collateral arrangements with Retail Clients for the purpose of securing or covering present or future, actual or contingent or prospective obligations of Clients. In respect of Professional Clients, Elective Professional Clients and/or Eligible Counterparties, the Company is not subject to such restriction. Where the Company uses title transfer collateral arrangements, it shall highlight to Professional Clients, Elective Professional Clients and/or Eligible Counterparties the risks involved and the effect of any title transfer collateral arrangement on the Client's financial instruments and funds.
- ix. When the Company provides Portfolio Management or has informed a Retail Client that it will carry out a periodic assessment of suitability, the periodic report shall contain an updated statement of how the investment meets the Client's preferences, objectives and other characteristics of the Retail Client.
- x. When providing Investment Advice, the Company will, before the transaction is made, provide the Retail Client with a statement/report in a durable medium specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the Retail Client.
- xi. The Company limits the maximum amount of leverage to Retail Clients while the said limitations may not apply to Professional Clients, Elective Professional Clients and/or to Eligible Counterparties.

¹ Retail Investor means: (a) a retail client as defined in point (11) of Article 4 (1) of Directive 2014/65/EU and (b) a customer within the meaning of Directive 2002/92/EC, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of Directive 2014/65/EU;

- xii. Where the Company executes orders for Retail Clients, it shall provide those Clients with a summary of the relevant policy focused on the total costs they incur.
Where the Company holds a retail Client account with positions in leveraged financial instruments or contingent liability transactions, the firm must report to the Client if the initial value of each instrument depreciates by 10% and thereafter at multiples of 10%.

4.3 Eligible Counterparties

4.3.1 An Eligible Counterparty is an undertaking which falls within categories (a), (b) and (c) of the Clients who are considered to be Professionals by default (of paragraphs 3.3.1.1, 3.3.1.2 and 3.3.1.3. above) and/or those included in Section 31(2), (31)(3) and 31(4) of the Law.

4.3.2 The Eligible Counterparty category is applicable only for the following investment services:

- Reception and transmission of Client orders in relation to one or more financial instruments
- Execution of orders on behalf of Clients
- Dealing on own account

On request, the Company may also recognize as an Eligible Counterparty which fall within a category of Clients who are to be considered professional Clients in accordance with the Company's requirements (see paragraph 3.3 above). In such cases, however, the undertaking concerned shall be recognized as an Eligible Counterparty only in respect of the services or transactions for which it could be treated as a Professional Client.

In the event of a transaction where the prospective counterparty is located in another EU Member State, the Company shall defer to the status of the other undertaking as determined by the legislation of the said Member State in which that undertaking is established. Where the Company treats the Client as an Eligible Counterparty, the Client will be entitled to fewer protections under the law than he would be entitled to as a Professional Client. In particular, and in addition to the above:

- i. The Company is not required to provide the Client with best execution in executing the Client's orders. Nevertheless, Eligible Counterparties may request on a trade by trade basis or in general, treatment that would allow the Company to take all sufficient steps to achieve best execution;
- ii. The Company is not required to implement procedures and arrangements which provide for the prompt, fair and expeditious execution of its Client orders, relative to other Client orders or its trading interests.
- iii. 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 for him/her and that he/she is able financially to bear any investment risks consistent with his investment objectives;
- iv. The Company is not required to provide the Client with information about the Firm, its services and the arrangements through which the Company will be remunerated.
- v. The Company is not required to provide the Client with risk disclosures on the products or services that he/she selects.
- vi. The Company is not required to provide to the Client with information about the Company's execution venues, the arrangements through which the Company will be remunerated and other relevant information.
- vii. The Investors Compensation Fund does not cover Eligible Counterparties.

- viii. The Company, when dealing with Eligible Counterparties, is not required to ensure that it does not remunerate its staff in a way that conflicts with its duty to act in the best interests of its Clients and that it does not accept any fees/commissions in relation to the provision of services to Clients.
 - ix. Where the Company informs the Client that investment advice is provided on an independent basis, the Company is not required to assess a sufficient range of financial instruments available to ensure that the Eligible Counterparty's investment objectives can be met.
- 4.3.3 Eligible Counterparties will be entitled to the same reporting obligations as they apply to Retail and Professional Clients.

5. Re-categorization Requests

5.1 The Company may, at the Client's request, treat a Professional Client or a Retail Client as a Client that might be otherwise categorized as an Eligible Counterparty, or treat a Retail Client as a Professional Client pursuant to the provisions of the law. If a Client desires to be re-categorized as either a Professional Client or an Eligible Counterparty, then the Client needs to send a written request to the Company. The Company shall consider such request at its own discretion after reviewing Client's change in circumstances.

5.2 The following requests may be submitted to the Company:

- i. A Retail Client requesting to be categorized as a Professional Client. In that case the Client will be afforded a lower level of protection.
- ii. An Eligible Counterparty requesting to be categorized as a Professional Client or Retail Client. In that case the Client seeks to obtain a higher level of protection.
- iii. A Professional Client requesting to be categorized as a Retail Client. The Client therefore obtains higher level of protection. A Professional Client can request to be treated as an Eligible Counterparty, obtaining therefore a lower level of protection. Professional Clients are allowed to request non-professional treatment and the Company may agree to provide a higher level of protection. It is noted that the Company is not required to agree with a request for non-professional or non-Eligible Counterparty treatment. In addition, the Company may, on its own initiative, treat as a Professional or Retail Client an Eligible Counterparty or treat as a Retail Client a Professional Client.

It is the responsibility of the Client, considered to be a Professional Client, to ask for a higher level of protection when the Client deems that he/she is unable to properly assess or manage 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 he/she shall not be treated as a Professional for the purposes of the applicable conduct of business regime. Such agreement will specify whether this applies to one or more particular services or transactions, or to one or more types of products and/or transactions.

5.3 Clients who may be treated as Professionals on request (Elective Professionals)

5.3.1 Identification criteria:

- 5.3.1.1 Clients other than those mentioned in the paragraph 3 above, including public sector bodies and private individual investors, may also be allowed to waive some of the protections afforded by the conduct of business rules.

The Company is allowed to treat any of the above Clients as Professionals provided the relevant criteria and procedures mentioned below are fulfilled. These clients will not, however, be presumed to possess market knowledge and experience comparable to that of the categories listed in 3.3 above.

Any such waiver of the protection afforded by the standard conduct of business regime will be considered valid only if an adequate assessment of the Expertise, Experience and Knowledge of the Client, undertaken by the Company, 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.

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

- i. 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.
- ii. The size of the Client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds EUR 500,000.
- iii. 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.

5.3.3 Procedure:

5.3.3.1 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 that they wish to be treated as a Professional Client, either generally or in respect to a particular investment service or transaction, or type of transactions or products,
- ii. the Company will give them a clear written warning of the protections and investor compensation rights they might 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.

5.3.3.2 Before deciding to accept any request for waiver, the Company is required to take all reasonable steps to ensure that the Client requesting to be treated as a Professional Client meets the relevant requirements stated in paragraph 5.2 above.

The Company implements appropriate written internal policies and procedures to categorize Clients. Professional Clients are responsible for keeping the Company informed about any change, which could affect their current categorization. If the Company becomes aware that the Client no longer fulfils the initial conditions which made him eligible to be categorized as a Professional Client, the Company reserves the right to take appropriate action.

All Clients are responsible for keeping the Company informed about any change which could affect their current categorization. However, if the Company becomes aware that the Client no longer fulfils the initial conditions which made it eligible for a professional treatment, the Company should take appropriate action.

5.3.3.3 Assessment

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

- i. 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;
- ii. the size of the Client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds 500,000 Euros;

- iii. 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 the case of small entities, the person subject to the above assessment should be the person authorized to carry out transactions on behalf of the entity.

5.3.4 Elective Professional Application

If you wish to proceed with your application for the change of your Client Categorization Type from Retail to elective Professional, please read and sign the 'Re-categorization Request Form' on each page and send it back to us via e-mail or upload it to your Members Area directly as 'Re-categorization Request Form' (Profile → Upload Documents). You can download the Re-categorization form from your Members Area.

Once we will receive your signed Re-categorization Request Form, we will perform a Fitness Test in order to ensure that we can qualify you as an elective Professional Client.

You will receive a final reply from us within 5 working days, counting from the date when you provided us with your Re-categorization Request Form.

- If the reply will be negative and your application will get rejected, no changes will be applied to your trading account and your Client Categorization type will remain as RETAIL.
- If the reply will be positive and your application will get approved, then:

STEP 1:

We will ensure that there are no open transactions on your current trading account, and we will create a new Professional account for you. You will receive your new MT4 login credentials via e-mail (your Members Area credentials will remain the same). Additionally, we will transfer all your funds into your Professional account, and we will disable the Retail account(s) you have with us.

STEP 2:

You will receive an e-mail confirmation from us, informing you that your re-categorization process has been successfully completed and your Professional account is ready to be used.

General Restrictions:

- The Client is allowed to have only Retail or only Professional Account(s). He/she cannot have both Retail and Professional Accounts open and active simultaneously with the Company.
- In order to create a Professional Account for the Client, there cannot be any open transactions on pre-existing Retail account(s), which the Client may have with the Company

5.3.5 Professional Clients Requesting to be treated as Retail

- 5.3.5.1 Such request shall be communicated to the Back-office and Customer Support Department via e-mail sent from the Client's registered mailbox. 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 should specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.

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