



## **Client Categorization Policy**

**October 2023**

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## I. Introduction

Merba Ltd (ex. XTrade Europe Ltd) (hereinafter “the Company” or “OffersFX”) is a Cyprus Investment Firm (“CIF”) registered (Certificate of Incorporation No. HE248449) in the Republic of Cyprus through the Department of Registrar of Companies and Official receiver and is authorized and regulated by the Cyprus Securities and Exchange Commission (hereinafter “CySEC”) under License Number 108/10.

The Company is required to categorise its Clients into one of the following three categories: retail, professional or Eligible Counterparty. Categorisation 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 categorisation 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 categorisation.

## II. Categories

1. **“Retail Client”** is a client who is not a professional client by default, as defined in section I below, or an eligible counterparty. It is noted that Retail Clients are afforded with the highest level of protection.

2. **“Professional Client”** is a client who possesses the experience, knowledge and expertise to make his own investment decisions and properly assess the risks that he incurs.

3. **“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.

### A. Categories of clients who are considered to be professionals by default

The following entities that satisfy one or more of the following criteria shall be regarded as professional Clients by default:

- (1) Entities which are required to be authorized or regulated to operate in financial markets. The list below should be understood as including all authorized entities carrying out the characteristic activities of the entities mentioned: entities authorized by a member State under the above Directive, entities authorized or regulated by a Member State without reference number to the above Directive, and entities authorized or regulated by a non-Member State:
- 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 services
- (2) Large undertaking meeting two of the following size requirements on a company basis:
- a) balance sheet total at least EUR 20,000,000
  - b) net turnover at least EUR 40,000,000
  - c) own funds at least EUR 2,000,000
- (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.
- (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.

The entities mentioned above are considered to be professional Clients by default. They are however 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 referred to above, the Company must inform him prior to any provision of services that, on the basis of the information available to the Company, the client is deemed to be 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.

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.

## **B. Non-Professional Clients who may be treated as Professionals on request**

### **1. Identification criteria**

Clients other than those mentioned in section I, 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 of the Company.

The Company is allowed to treat any of the above clients as professionals provided the relevant criteria and procedure 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 section I.

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, 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 own investment decisions and understands the risks involved.

The fitness test applied to managers and directors of entities licensed under Directives in the financial field could be regarded as an example of the assessment of expertise and knowledge. In the case of small entities, the person subject to the above assessment should be the person authorised to carry out transactions on behalf of the entity.

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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 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.

For the assessment whether transactions are of a “significant size”, the Company will consider whether the transactions were individually large enough to provide the client with meaningful exposure to the “relevant market” the Client intends to trade, so that this exposure contributed to the client’s acquiring the required expertise, experience and knowledge of the transactions or services envisaged.

The scope of this analysis will not be limited to (the size of) transactions previously carried out by the relevant client or by clients of the relevant investment firm on the relevant market.

- In relation to leveraged positions or financial instruments for which a margin is deposited, the typical notional value of transactions in such financial instruments will be commensurately higher than in non-leveraged products, and therefore the Company will assess the “significant size” at a level appropriate to that market.
- In the case of derivatives, the Company may also consider if the “relevant market” should be distinguished by the underlying asset class, index or reference price to which exposure is provided to ensure “significant size” is appropriately assessed.

## **2. Procedure**

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

- a) they must state in writing to the Company that they wish 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,
- b) the Company must give them a clear written warning of the protection and investor compensation rights they may lose,
- c) they must state in written, in a separate document from the contract, that they are aware of the consequences of losing such protection.

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 above.

The Client wishes to be re-classified shall contact our Customer Support at [support@offersfx.com](mailto:support@offersfx.com) and the Company will respond accordingly after reviewing the request.

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

All Clients are responsible for keeping the Company informed about any change which could affect their current categorisation.

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.

### **C. Professional Clients Requesting to be treated as Retail**

It is noted that Professional Clients of section I are allowed to request non-professional treatment and instead be treated as Retail Clients, so as to enjoy a higher level of protection. It is the responsibility of the Client, considered to be a 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 should specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.

### **D. “Eligible Counterparty”**

An “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 orders.

An Eligible Counterparty is an undertaking which falls within categories (1), (2) and (3) of the Clients who are considered to be Professionals by default (of section I above) and/or those included in Section 31(2), (31) (3) and 31(4) of the Law.

Further, the Eligible Counterparty category is applicable only for the following investment services:

- ☐ Reception and transmission of Client orders
- ☐ Execution of orders on behalf of Clients
- ☐ Dealing on own Account

On request, the Company may also recognise as an Eligible Counterparty which fall within a category of Clients who are to be considered professional Clients in accordance to the fitness test (see section III above). In such cases, however, the undertaking concerned shall be recognised 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.

## **E. Request for Different Classification**

- a) A Retail Client has the right to request a different classification as a Professional Client but he/she will be afforded a lower level of protection. The Company is not obliged to deal with him/her under a different classification.
- b) A professional Client has the right to request a different classification as a Retail Client. In that case the Client seeks to obtain a higher level of protection. A Professional Client can request to be treated as an Eligible Counterparty, obtaining therefore a lower level of protection.
- c) An Eligible Counterparty has the right to request a different classification of either a Professional Client or Retail Client in order to obtain a higher level of protection.

The Company has the right to decline any of the above Client's request for different classification. 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.

Clients wishing to change their Client Categorization, they may contact the Company at [compliance@offersfx.com](mailto:compliance@offersfx.com).

## **III. Protection Rights**

### **A. Retail and Professional Clients**

Where the Company treats a Client as a Retail Client, 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):

- (a) A Retail Client will be given more information disclosures with regards to the Company, its services, 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.
- (b) 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 144(I)/2007 (for example but not limited to the situation where on an execution only basis the financial instrument concerned is not complex).

On the other hand, the Company shall be entitled to assume that a Professional Client 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. Consequently, and unlike the situation with a Retail Client, the Company should not generally need to obtain additional information from the Client for the purposes of the assessment of appropriateness for those products and services for which they have been classified as a Professional Client.

- (c) When executing Client orders, the Company must 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 its Clients.

Where the Company executes an order 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 which 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. The Company shall also send a notice to a Retail Client confirming execution of the order as soon as possible and no later than the first business day following execution or, if the confirmation is received by the Company from a third party, no later than the first business day following receipt of the confirmation from the third party, as applicable.

Professional Clients are also entitled to a confirmation for the execution of their orders however there is no specific timeframe involved as to when the Professional Client will receive this information. Nevertheless, this confirmation shall be provided promptly.

- (e) 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.
- (f) Where the Company executes orders for Retail Clients, it shall provide those Clients with a summary of the relevant policy focused on the total cost they incur.
- (g) The Company is required to provide Retail Clients with more information than Professional Clients as regards the execution of their orders.
- (h) The Company is obliged to enter into a written basic agreement with the retail Client, setting out the essential rights and obligation of both parties.



- (i) 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%.
- (j) 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 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 and/or Eligible Counterparties the risks involved and the effect of any title transfer collateral arrangement on the Client's financial instruments and funds.
- (k) Retail Clients will be provided with negative balance protection and as such, may not lose more than the total amount deposited in their trading account. Professional Clients and/or Eligible Counterparties will not be provided with negative balance protection.
- (l) Retail Clients may be entitled to compensation under the Investor Compensation Fund ("ICF") for Clients of Investment Firms, while Professional Clients are not entitled to compensation under the ICF.

## **B. Eligible Counterparties**

Where the Company treats the Client as an Eligible Counterparty, the Client will be entitled to fewer protections under the Law than it would be entitled to as a Retail or Professional Client. In particular, and in addition to the above of paragraph 5.1 (the list may not be exhaustive):

- (a) 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.
- (b) 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.
- (c) The Company is not required to assess the appropriateness of a product or service that it provides to Client but can assume that the Client have the expertise to choose the most appropriate product or service for itself and has the ability to bear losses.

- (d) The Company is not required to provide the Client with information about the Company, its services, financial instruments and proposed investment strategies, execution venues, the arrangements through which the Company will be remunerated and other relevant information.
- (e) The Company is not required to provide reports to the Client on the execution of its orders or the management of his investments.
- (f) The Company is not required to ensure that its financial instruments are designed to meet the needs of an identified target market of Eligible Counterparties.
- (g) 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 interest of its Clients and that it does not accept any fees/commissions in relation to the provision of services to Clients.
- (h) The Investors Compensation Fund does not cover Eligible Counterparties.

However, Eligible Counterparties will be entitled to the same reporting obligations as they apply to Retail and Professional Client.