
INTERNAL REGULATIONS FOR THE CLASSIFICATION OF CLIENTS WITH INVESTMENT BROKER “INTERCAPITAL MARKETS” AD

The present document is based on the Law on the Markets for Financial Instruments – LMFI (Public Gazette, Issue number 52 from 29 June 2007) and Ordinance No 38 from 25 July 2007 for the requirements to the investment firms’ activity, issued by the Chairman of the Commission of Financial Supervision (Public Gazette, Issue number 67 from 17 August 2007). The document was approved with a resolution of the Board of Directors of IB “Intercapital Markets” AD from 31 October 2007.

1. TYPES OF CLIENTS AND CRITERIA

1.1. The following shall be regarded professionals by the IB in all investment services, investment activities and financial instruments:

1.1.1. Entities which are required to be authorised to operate in the financial markets or whose activity and operations on such markets is governed in a different way by the national legislation of a Member State, regardless of whether it has been conformed to Directive 2004/39/EC of the European Parliament and of the Council, as well as persons that have received a permit for the execution of those activities or whose activities have been governed differently by the legislation of a third country, as follows:

- a) credit institutions;
- b) investment firms;
- c) other institutions which are due to be authorized or regulated in a different way;
- d) insurance companies (firms);
- e) collective investment undertakings and their managing companies;
- f) pension funds and pension-insurance companies;
- g) persons dealing on own account with commodity or commodity derivatives;
- h) juridical persons which provide investment services or operate investment activities which solely comprise of dealing on own account on the markets in financial futures or options or other derivative financial instruments on the financial market only with the purpose of hedging of positions on the markets in derivative financial instruments, or which deal on account of other participants on those markets, or set prices for them guaranteed by clearing members of the same markets, on occasions when the responsibility for the performance of contracts, concluded by such persons, is taken by clearing member of the same markets;
- i) other institutional investors.

1.1.2. Large undertakings meeting two of the following size requirements:

- a) balance sheet total – the par value of minimum EUR 20 000 000 in BGN;
- b) net turnover – the par value of minimum EUR 40 000 000 in BGN;
- c) own funds – the par value of minimum EUR 2 000 000 in BGN.

1.1.3. National and regional public authorities, public bodies that participate in the management of the 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.

1.1.4. Other institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitization of assets or other financing transactions.

1.2. Apart from the clients under 1.1., IB shall regard professionals in all or some investment services, investment activities or financial instruments, clients which have given a written statement in this matter and meet two of the following three requirements:

- the entity 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 entity's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds the par value of EUR 500 000
- the entity 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

The IB shall not consider that a client meeting the above requirements possesses the experience and knowledge of the professional client under point 1.1.1.

1.3. The IB shall not apply the relevant regulations which provide higher level of protection only on occasion that:

- the IB has made an assessment of the expertise, experience and knowledge of the client and
- it gives the IB reasonable assurance, in light of the nature of the transactions or services the client intends to conclude or use, that he is capable of making his own investment decisions and understanding the risks involved.

2. PROCEDURES

2.1. For clients of the IB as of 1 November 2007

Step 1:

The IB shall make an initial classification of all its clients up to 1 November 2007, working with the information available to it, and divide its clients into three categories:

- Eligible counterparty
- Professional clients
- Nonprofessional clients

Step 2:

The IB informs its clients in an appropriate way and in reasonable terms on:

- the new requirements implied for the classification of clients;
- the requirements and the criteria according to which the IB specifies the clients as professional or nonprofessional, as well as the circumstances upon which the clients may be specified as eligible counterparty;
- the initial classification made by the IB and that the clients shall be regarded respectively professional, nonprofessional or eligible counterparty;
- the right of all the clients to require to be classified/specified in a different category and, in particular, the right of the clients specified as "professional" or "eligible counterparty" to claim that their contracts are changed in order to guarantee to the clients higher level of protection;
- the limitations of their protection with their classification as "professional" or respectively as "eligible counterparty"

Step 3:

The IB invites every single client to sign a written understanding to their present contract with the IB, which shall include the new legal requirements.

On occasions when a client, initially classified as “professional” or “eligible counterparty”, notifies the IB that he is not able to assess and manage the risks involved with the investment into financial instruments and requires higher level of protection (corresponding to the nonprofessional client status), the IB shall provide to this particular client the respective higher level of protection.

The higher level of protection shall be provided on basis of a written understanding between the IB and the clients, which shall specify the concrete services, activities, contracts, financial instruments in which the higher level of protection shall be provided to the client. The higher level of protection assures the client that he shall not be regarded professional for the purposes of the applicable regime on the operation and activities of the investment broker.

On occasions when a client, initially classified as “nonprofessional”, requires to be treated as “professional”, the IB applies the following procedure:

Step 1:

The IB specifies whether the client has requested to be treated as “nonprofessional” in general or only in certain investment services or contracts or a definite type of contracts or investment product;

Step 2:

The IB ascertains whether the client meets at least two of the three requirements upon Section I (2). For that purpose the IB may work with information already provided by the client (by filling the clients’ questionnaire or otherwise), request some additional information and/or confirmation and update of the old information, as well as use information on contracts and size of the entity’s investment portfolio kept with the IB.

Step 3:

Shall the assessment confirm that the client meets at least two of the three requirements, the IB offers the client to sign a professional client’s agreement and always:

- Warns in writing the client that he shall no longer be subject to the respective protection at the providing of investment services and operating activities by the IB, as well as to the right to compensation from the Compensation Fund for Investments in Financial Instruments and requires that the client declare in writing having been notified of the above.
- Shall the assessment fail to ascertain that the client meets at least two of the three requirements, the IB notifies the client for the result of the assessment, confirms the classification of the client as nonprofessional and invites him to sign a nonprofessional client’s agreement.

On occasions when an entity, classified as “eligible counterparty”, requires that they are not treated as such and the IB agrees, the entity shall be treated as professional client, unless they have explicitly requested to be treated as a nonprofessional client.

2.2. For clients, signing agreements after 1 November 2007

In order to classify/ specify its clients, signing agreements after 1 November 2007, the IB applies the following procedure:

Step 1:

Before the signing of the agreement with the client, collects information (through a client’s questionnaire or otherwise), which shall be necessary for the classification.

Step 2:

Offers to the potential future clients to agree to be classified in one of the three client categories on basis of the information collected.

Step 3:

Informs the potential future clients on:

- the new requirements implied for the classification of clients;
- the requirements and the criteria according to which the IB specifies the clients as professional or nonprofessional, as well as the circumstances upon which the clients may be specified as eligible counterparty;
- the right of all the clients to require to be classified/specified in a different category and, in particular, the right of the clients specified as “professional” or “eligible counterparty” to claim that their contracts are changed in order to guarantee to the clients higher level of protection;
- the limitations of their protection with their classification as “professional” or respectively as “eligible counterparty”

Shall the clients agree with the classification offered, the IB invites them to sign the respective agreement (a professional, nonprofessional or an eligible counterparty agreement).

Shall a client, having been offered to be classified as “non-professional” makes a written statement claiming to be classified as professional, the IF offers the following procedure:

Step 1:

The IB specifies whether the client has requested to be treated as “non-professional” in general or only in certain investment services or contracts or a definite type of contracts or investment product;

Step 2:

The IB ascertains whether the client meets at least two of the three requirements upon Section I (2). For that purpose, the IF may work with information already provided by the client (by filling the clients’ questionnaire or otherwise), request some additional information and/or confirmation and update of the old information, as well as use information on contracts and size of the entity’s investment portfolio kept with the IB.

Step 3:

Shall the assessment confirm that the client meets at least two of the three requirements, the IB offers the client to sign a professional client’s agreement and always:

Step 4:

Warns in writing the client that he shall no longer be subject to the respective protection at the providing of investment services and operating activities by the IB, as well as to the right to compensation from the Compensation Fund for Investments in Financial Instruments and requires that the client declare in writing having been notified of the above.

Step 5:

Shall the assessment fail to ascertain that the client meets at least two of the three requirements, the IB notifies the client for the result of the assessment, confirms the classification of the client as nonprofessional and invites him to sign a nonprofessional client’s agreement.

2.3. Procedures for the completion of the assessment under 1.1.3.

For the clients specified as “non-professional” the IB may, at its own initiative or at that of the client, undertake the completion of the assessment of the expertise, experience and knowledge of the client.

The assessment may be based on the following criteria and requirements:

- education – the client has graduated higher education;
- profession or a relevant former profession – the client has at least one-year experience in undertakings from the non-bank sector or in banks on the condition that his obligations were related to the main activity of these undertakings; or
- profession or a relevant former profession – the client has at least three years experience in public institutions or other public subjects whose main functions include management and control over public financial assets or management, control and investing of money into funds, created by virtue of a legal act.

2.4. General procedures

On occasions when the IB finds, during the course of its activity, that a client, classified as “professional”, no longer meets the corresponding requirements, the IB undertakes the necessary measures for the application of the higher level of protection with respect to this client.

The IB may, at its own initiative or at that of the client:

- classify as “professional” or “nonprofessional” a client which on other occasions would have been classified as “eligible counterparty” within the meaning of Para 1, point 29 from the LMFI “investment firm, credit institution, insurance company, collective investment scheme, managing company, pension fund, pension-insurance company, other financial institutions, the entities under Article 4, subarticle 1, point 11 and 12, national governments, public authorities managing national debts, central banks and international institutions, as well as the third-state subjects which have explicitly requested to be treated as such”;
- classify as nonprofessional a client which is regarded professional within the meaning of section 1 from the annex to the LMFI.

The IB informs the clients under 1.1.2, classified as professional, on their obligation to notify the IB for any change in the data which was worked on at their classification as professional clients; the IB also requires from the clients to sign a declaration that they will perform the above obligation.

3. LEVELS OF PROTECTION

3.1. With regard to the professional clients:

- The IB’s obligation for providing information to the clients is considerably limited. The IB shall explicitly notify the client only on:
- The presence of a security right or right to retention over the client’s money or financial instruments in favor of the IB and the circumstances at which such rights occur or may occur;

The presence of a right for deduction over the client’s money or financial instruments in favor of the IB and the circumstances at which such rights occur or may occur;

- The presence and the conditions under which the IB is entitled or may be entitled to a right to deduction in respect of client financial instruments and funds;
- When applicable - the possibility that the depository institution has a security right, a right to retention or a right to deduction over the client’s financial instruments or funds;

- The IB shall not be obliged to notify the client on the risks involved with the recommended deals with financial instruments, it may do so at its own discretion;
- Professional clients shall be able to independently determine the information they need for taking an investment decision and to request from the IB to provide them this information. When providing consultations, the IB shall consider the client able to fully estimate the extent to which the consultations are suitable to his financial abilities and investment objectives.

3.2. With regard to the “eligible counterparty” the IB shall not be obliged to:

- observe the requirement to provide clear, fair and detailed information on the investment services provided, as well as on the associated charges;
- analyze the client’s financial abilities, objectives, experience, knowledge and his will to take risks, or take into consideration such information if available;
- apply its best execution policy, as well as to request the client’s approval as of that;
- execute the accepted client’s orders without delay, accurately and fairly, as well as keep the entry numbers of the orders.

***Orders large in scale compared with normal market size**
(in EUR)

Class in terms of average daily turnover (ADT)	ADT < 500 000	500 000 ≤ ADT < 1 000 000	1 000 000 ≤ ADT < 25 000 000	25 000 000 ≤ ADT < 50 000 000	ADT ≥ 50 000 000
Minimum size of order qualifying as large in scale compared with normal market size	50 000	100 000	250 000	400 000	500 000