

2nd February 2026

Deirdre Boyd
Financial Conduct Authority

12 Endeavour Square

London E20 1JN

Submitted by e-mail to: cp25-36@fca.org.uk

Dear Ms. Boyd and team,

CFA UK & CFA Institute letter in response to the FCA's CP 25/36 on Client categorisation and conflicts of interest

Robust standards for retail investor treatment should not constrain the investment flexibility of more sophisticated investors to drive innovation, UK investment culture and UK competitiveness in wealth management. We therefore support the FCA's review of client categorisation, while noting that **the FCA does not intend to dilute retail investor protection**. Our responses to your questions are contained in Appendix 1, with some headline points summarized below.

ASSESSMENT OF PROFESSIONAL CLIENT STATUS

We see benefits in the FCA's proposal "to remove barriers to genuinely expert and well-resourced individuals who wish to opt out of retail protections they do not need". However, we also have some concerns with the new approach:

- Conflicts of interest in categorisation
- Improper categorisation due to inadequate process design or application
- Risk of a client with little understanding being invested in unsuitable products
- Legal liability for firms if a client feels the consequences were not explained
- Onerous transition and implementation of the new holistic qualitative process

SUGGESTED MODIFICATIONS

We accordingly make a few recommendations:

- **The £10m investible assets test:** Despite this level of wealth, there could be cases where the client may not understand complex products and associated risks, or could be influenced by others, or at some point pose a high legal liability risk to firms. This test should therefore be supplemented by a simple qualitative requirement: Inclusion of the Adverse Information factor assessment. We also recommend being explicit about the definition of "investible assets", for example does it, or does not include DC pension assets, investment property etc.
- **The holistic qualitative test:** While this removes the previous somewhat complex quantitative approach, it introduces subjectivity and requires firms to develop their own detailed assessment process and documentation. This test should be supplemented with a simple quantitative requirement of minimum investable

assets such as £500k, being added to the Financial Resilience factor. The same definition of investible assets would apply as to the £10m.

- **Occupational experience factor:** Presently the factor description implies only employment history, whereas many business owners and entrepreneurs may have appropriate experience in related areas, and will add a wider section of current and potential investors into consideration.
- **Support for transition:** Firms should be allowed a reasonable time period to re-assess clients under the new holistic qualitative framework; we suggest 2 years
- **Support for firms:** It would be helpful if industry bodies develop examples of good practice and for the FCA to incorporate this issue in a thematic review in due course to reflect on implementation and observations vs expectations.
- **Ongoing review:** We recommend including periodic reviews of the new regime to mitigate ongoing risks and in the interest of clients, but time frames must be set proportionately.

We also suggest considering a provision on interoperability, for example with the EU. The FCA could examine an approach that seeks automatic mutual recognition of categorisation even if the assessment approaches differ.

We hope our comments are useful and would be grateful for the opportunity to meet and discuss our feedback. We consent to publication of our response.

Yours sincerely,

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With thanks for their contributions to our volunteers: Natalie Schoon CFA, Alistair Jones, and the oversight of CFA UK's Ethics & Professionalism Steering Committee.

APPENDIX I

Responses to Questions

Question 1: Do you agree with the deletion of the mandatory quantitative criteria from the qualitative assessment, (other than for local authorities)? [Yes, No, No view]. If yes or no, please explain your answer.

Yes. We agree with replacement of the quantitative criteria, given its complexity and the feedback you have received on the risk of mis-categorisation.

However, the proposed holistic qualitative assessment introduces a new approach that is **almost entirely subjective and requires firms to develop their own detailed assessment process and documentation** (using the key factors).

Therefore, it is subject to a number of risks for both clients and firms, such as:

- Conflicts of interest in categorisation, given the wider product sale opportunity to professional clients
- Improper categorisation due to inadequate process design or application;
- Legal liability for firms in case a client feels the consequences of categorisation were not properly explained.

In particular we recommend a modification to the resilience factor to mitigate these:

- **Financial resilience factor**

This factor would be **more robust and less subjective with a quantitative limit or guidance added to it**, for example “must have investible assets of over £x”, or “we would normally not expect to see clients with investible assets below £x passing the resilience test unless there are other significant considerations”. A quantitative indicator of say £500k would help demonstrate risk bearing capacity. The definition of investible assets would be the same as for the £10m limit, and in our response to Q. 3 below, we recommend the FCA clarify the definition to remove any ambiguity.

We also suggest the following to clarify and enhance the factor impact:

- **Occupational experience factor**

Presently the factor description implies only an employment history. We suggest adding business owners and entrepreneurs to the description. They have typically been successful at creating businesses and developed experience in areas such as return on investment, budgeting, company financials, and capital raising (although this does not guarantee investment knowledge). This will bring a wider section of current and potential investors into consideration for this factor.

Question 2: Do you agree with the proposal to introduce a new alternative for clients above a certain wealth threshold to opt out of retail protections, subject to informed consent and wider FCA client protection rules? [Yes, No, No view] If yes or no, please explain your answer.

Question 3: Do you agree that the threshold for this assessment, set at £10 million, is an appropriate level to balance client protection with reducing regulatory burden on firms? [Yes, No, No view]. If yes or no, please explain your answer.

No, we do not fully agree.

We appreciate the reasoning behind a single and simple yardstick, and agree that £10m of investible assets is a reasonable threshold. However, we **recommend that the single quantitative criteria is supplemented with a light touch qualitative assessment.**

Our concern is that while £10m is a high bar, there is still the risk of a wealthy client with little or no understanding of investments or appreciation of key risks being invested in unsuitable products. It is possible that some wealthy individuals have a poor understanding of complex investment products, or could be heavily reliant on informal advice (e.g. from friends and relatives, or social media influencers) that may lead them in a certain direction, or who may be vulnerable. This can have an impact both on the client and the firm, the latter by way of legal risk in the event of unexpected losses regardless of risk disclosure, particularly in down markets or in case of product failure.

Supplementing the £10m test with a simple qualitative assessment would significantly mitigate such risks and ensure there are fewer unexpected outcomes. It could be straightforward and non-onerous for firms. A further future benefit could be that if in time the FCA felt the £10m threshold could reduce, for example to £5m, the additional comfort of an embedded light qualitative test would support relaxation. The light qualitative test we recommend is adding the Adverse Information Factor from the qualitative assessment to the wealth criteria. Therefore, the test would be:

- £10m investible assets
- The firm has reasonably assured itself that there is no Adverse Information

We also recommend being **explicit about the definition of “investible assets”**, for example does it or does not include DC pension assets, investment property etc.

**Question 4: Do the proposed Relevant Factors allow firms flexibility in demonstrating how they have determined a client has acquired the capability to be treated as a professional client? Are there any other factors that firms should be required to consider? [Yes, No, No view]
If yes or no, please explain your answer.**

Yes. The way in which the handbook and guidance headline the factors, provides sufficient guidance with flexibility for firms to determine the details of their assessment in a responsible way.

Question 5: Do our proposed rules and Handbook guidance give firms sufficient clarity on how to conduct an adequate assessment of a client’s capability to be treated as a professional client? [Yes, No, No view]

If yes or no, please explain your answer.

Yes. Greater clarity will naturally be required by many firms, but we feel this degree of guidance is appropriate for the purpose rather than having prescriptive rules. Firms should be allowed to apply their own process and be ready to justify it as reasonable and diligent, if required.

It would be helpful if **industry bodies develop examples or illustrations of good practice** to support firms, and the **FCA also conducts a thematic review** of good and poor practice in due course.

Question 6: Do you agree that financial resilience as a Relevant Factor should be outcome-based, without any minimum financial threshold? [Yes, No, No view]
If yes or no, please explain your answer.

No. Please refer to our response to Question 1 above wherein we **advocate for a quantitative minimum requirement, or guidance to this effect**, to mitigate the risk of incorrect classification and to reduce subjectivity.

This will mitigate the risk of someone with limited financial resources being qualitatively assessed as having high financial resilience – exception examples being anticipated inheritance or assets that are not “investible” but provide material income such as real estate.

Question 7: Do you agree with our proposal to continue to allow opting out in relation to specific products and services, or generally in relation to all products and services? [Yes, No, No view]
If yes or no, please explain your answer.

Yes. We agree that this flexibility to the client and the firm is appropriate and delivers the benefits of a more proportionate regime, while limiting the downside risks.

We do not see a strong client interest rationale of insisting on an “all or nothing” approach, but recognise that **monitoring and client treatment complexity for the firm could increase**.

Question 8: Do you agree with our proposal to maintain the current qualitative and quantitative assessment for local authorities? [Yes, No, No view]
If yes or no, please explain your answer.

No view.

Question 9: Do you agree with the proposed requirement that firms must obtain the client’s informed consent to opting out of retail protections and being treated as a professional client? [Yes, No, No view]
If yes or no, please explain your answer.

Yes. We agree with the requirement for informed consent in writing. It is essential that a client understands, and confirms their understanding, of the retail protections they will lose as a result of professional categorisation.

**Question 10: Do our proposed minimum disclosure requirements to inform the client's consent, including reliance on the firm's existing Consumer Duty obligations, pose any particular challenges? [Yes, No, No view]
If yes or no, please explain your answer.**

No. Up to the point that a client is categorised as professional, and during the process of the assessment, the Consumer Duty should apply.

**Question 11: Do you agree with our proposals to allow firms to initiate discussions with clients about opting out of retail permissions, where they have a reasonable basis for believing the client will meet the professional client threshold, and to the proposed conditions for such communications? [Yes, No, No view]
If yes or no, please explain your answer.**

Yes. This seems to be a practical approach, otherwise it will be entirely left to clients to approach the firm for this discussion.

But we recommend the FCA emphasises its expectation contained in the consultation **“any attempt to incentivise, mislead or put pressure on a client to opt out will be strictly prohibited”**. Any future FCA thematic review should pay particular attention to this aspect.

**Question 12: Will our proposals for change, taken together, allow firms to have appropriate engagement with clients about opting out, without communicating financial promotions about specific professional-only products before a firm has met the conditions for categorising a client as elective professional? [Yes, No, No view]
If yes or no, please explain your answer.**

Yes. With the specific condition that before being categorised as professional and during the assessment process (for example to illustrate the types of products available, or to induce categorisation) **any communication about professional-only products is prohibited.**

**Question 13: Do you agree with our proposal not to require periodic reassessment of all elective professional clients, but to make clear firms must reassess any client they should reasonably suspect no longer meets the conditions for the categorisation? [Yes, No, No view]
If yes or no, please explain your answer.**

No. The single point quantitative criteria is by definition subject to change depending on a clients circumstances, market movements etc. **Therefore, we recommend that the quantitative criteria is subject to periodic checking, at a minimum annually.**

On the **holistic qualitative approach, we also suggest periodic re-assessment** but set more flexibly as a range of factors have been considered that are unlikely to change much in the short term:

- A **proportionate time period** for re-assessment, for example every 3 years,
- But with a **more frequent review of the Adverse Information factor** at a minimum of every 1 year, or earlier if required.

**Question 14: Taken together, do our proposals adequately balance protecting consumers from being inappropriately categorised, with reducing obstacles to clients accessing the products and services that meet their needs and risk profile? [Yes, No, No view]
If yes or no, please explain your answer.**

Please refer to our previous responses, wherein we agree with the simplification and other benefits, but call out the risks and recommend:

- Supplementing the quantitative £10m criteria with a simple qualitative test of Adverse Information
- Supplementing the qualitative assessment with a simple quantitative Financial Resilience limit or expectation

**Question 15: Do you agree with our proposed approach to rely on existing client safeguarding and governance rules (e.g. ‘client’s best interests’ rule, fair clear and not misleading rules, SYSC rules and the Consumer Duty) rather than introduce additional new safeguards specifically for the elective professional categorisation process? Would the Consumer Duty be sufficient rather than any of our proposed new rules? [Yes, No, No view]
If yes or no, please explain your answer.**

Yes. We agree with the approach to operate under the existing regulatory framework, including Consumer Duty, to support investor interest and market integrity.

Bespoke regulatory additions or disapplication should be reserved for very unusual cases such as innovative technology applications, and is unlikely to be required for client categorisation.

**Question 16: Do you think that our proposals to remove the list of types of entities in COBS 3.5.2R(1) simplify the per se professional criteria? [Yes, No, No view]
If not, should we retain the list or make any amendments to the list?**

Yes. We agree with this simplification as it does not dilute the underlying principles and potentially reduces exceptions and anomalies.

**Question 17: Do you agree this category should include SPVs, and if so, do you agree with our proposed definition of an SPV for this purpose? [Yes, No, No view]
If yes or no, please explain your answer.**

Yes. The definition needs to be sufficiently wide, including any **SPV that is owned, controlled or operated by an authorised entity** that itself is eligible to be a per se professional client.

**Question 18: Do you agree with our proposals to remove the distinctions in thresholds for categorising large undertakings and trustees other than pension trustees for MiFID and non-MiFID business? [Yes, No, No view]
If yes or no, please explain your answer.**

No view.

**Question 19: Do you currently categorise clients under the criteria we propose to remove (COBS 3.5.3R(3)(a)-(d))? [Yes, No, No view]
If yes, do you see any challenges in applying the MiFID criteria?**

Not applicable, as we are a society.

**Question 20: Do you agree that pension trustees should currently continue to be treated as per se professional clients for non-MiFID business? [Yes, No, No view]
If not, what do you think the criteria should be for categorising those trustees?
Should it be a monetary threshold, and if so what, or something else, such as single vs master trust?**

Yes. We think this is a reasonable approach, and aligns with the expectations of experience and knowledge of trustees, as well as their role in making decisions and overseeing others in investor interest.

We note however that trustees being treated as professionals should have no bearing on ensuring that **retail investors within a pension scheme are provided retail protections** such as relating to appropriate products, disclosure and financial promotions.

**Question 21: Do you agree with our proposals to clarify the record keeping requirements for client categorisation? [Yes, No, No view]
If yes or no, please explain your answer.**

Yes. The record keeping requirements are a logical and essential aspect of the categorisation framework. We recommend that the FCA encourages firms **to use technology solutions** for a more robust and easier to update record system.

Question 22: Do you agree our proposal to remove the disapplication of COBS 3.8 for firms not carrying out designated investment business, as set out in COBS

3.1.3R, will make the record keeping obligations for these firms clearer? [Yes, No, No view]

If yes or no, please explain your answer.

Yes. If a firm feels it should categorise clients, then the same rules should apply, which streamlines the framework and is consistent for clients.

Question 23: Do you agree with our proposal to clarify COBS 3.2.3R(4)? [Yes, No, No view]

If yes or no, please explain your answer.

Yes. We understand this is typical problem facing risk and compliance staff when discussing fiduciary obligations with investment managers at investment firms.

However, this is also why **the product governance framework is paramount** to guarantee that the chain of communication between the distributor, the manager of the fund and the end client remains integral.

And under SYSC, the management of conflicts of interest should ensure that the manager does not end up harming the interests of end-investors.

Question 24: How might the differences between our proposed changes to client categorisation and the other regimes affect you?

Please explain your answer.

Not applicable, as we are a society.

Question 25: Do you agree that a one off re-categorisation of existing elective professional clients is the right way to ensure the integrity of the elective professional regime going forward and achieve our goal of resetting how firms differentiate between retail and professional clients? [Yes, No, No view]

If yes or no, please explain your answer.

No. This is likely to pose an unnecessary burden on firms, and also on clients in terms of information, assessment and paperwork.

We recommend a more proportionate approach as follows:

- £10m threshold clients can be immediately re-categorised under the new approach
- All other clients currently categorised using the current quantitative approach are to be reassessed under the new qualitative approach and re-categorised within a period of **2 years**

Question 26: If you are an authorised firm, do you anticipate our proposed changes could lead to you seeking to vary your part 4A permissions? [Yes, No, No view]

If yes or no, please explain your answer.

Not applicable, as we are a society.

Questions 27 – 30 under Chapter 4

We are not providing detailed responses to these sections, but are **supportive of the proposals** as they aim for simplification and do not appear to dilute the underlying obligations of firms or the effectiveness of the regulatory framework.

APPENDIX II **About CFA UK and CFA Institute**



CFA UK serves nearly 12,000 members of the UK investment profession. Many of our members analyse securities, manage investment portfolios, advise on investments, or are in roles responsible for investment operations or oversight.

Our role is to help investment professionals build and maintain their skills and competencies so that they are technically and ethically competent to meet their obligations to clients. We advocate for high standards of ethical and professional behaviour and our work with regulators, policymakers and standard setters is focused on skills, knowledge, and behaviour.

We are not a lobby group or a trade body. We are an independent, professional association whose mission is to ‘educate, connect and inspire the investment community to build a sustainable future.’

Founded in 1955, CFA UK is one of the largest member societies of CFA Institute. Most of our members have earned the Chartered Financial Analyst® (CFA®) designation. All our members are required to attest to adhere to CFA Institute’s Code of Ethics and Standards of Professional Conduct.

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