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STATUTORY INSTRUMENTS

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**2024 No. 105**

The Public Offers and Admissions to Trading Regulations 2024

PART 3

Regulation of public offers and admissions to trading

*Rule-making powers of FCA*

**Qualified investor condition in regulation 15(2)(a)**

**16.**—(1) For the purposes of regulation 15(2)(a), “the qualified investor condition” is that the rules of the primary MTF provide that—

- (a) only qualified investors are permitted to trade on the primary MTF, and
- (b) no qualified investor is permitted to trade on the primary MTF when acting (directly or through one or more intermediaries) on behalf of persons who are not themselves qualified investors.

(2) Where—

- (a) a person who is not a qualified investor (“the client”) has engaged a qualified investor falling within paragraph 3(a) of Schedule 1 to the markets in financial instruments regulation to act as the client’s agent, and
- (b) the terms on which the qualified investor is engaged enable the qualified investor to make decisions concerning trading on a primary MTF on the client’s behalf without reference to the client,

trading on the primary MTF by or on behalf of the qualified investor is not to be treated for the purposes of paragraph (1) as done on behalf of the client.

(3) In this regulation “qualified investor” means—

- (a) a person described in paragraph 3 of Schedule 1 to the markets in financial instruments regulation<sup>(1)</sup>, other than a person who has agreed in writing with a relevant firm to be treated as a non-professional client in accordance with paragraph 4 of that Schedule;
- (b) a person who has made a request to one or more relevant firms to be treated as a professional client in accordance with paragraphs 5 and 6 of that Schedule and has not subsequently agreed in writing with that relevant firm (or each of those relevant firms) to be treated as a non-professional client in accordance with paragraph 4 of that Schedule;
- (c) a person who—
  - (i) is an eligible counterparty for the purposes of Section 6 of Chapter 3 of the Conduct of Business sourcebook, and

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<sup>(1)</sup> Schedule 1 was inserted by S.I. 2018/1403.

- (ii) has not agreed in writing with a relevant firm to be treated as a non-professional client in accordance with paragraph 4 of Schedule 1 to the markets in financial instruments regulation; or
- (d) a person whom—
  - (i) a relevant firm was authorised to continue to treat as a professional client immediately before 3 January 2018 by virtue of Article 71.6 (transitional provisions) of [Directive 2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives [85/611/EEC](#) and [93/6/EEC](#) and [Directive 2000/12/EC](#) of the European Parliament and of the Council and repealing Council Directive [93/22/EEC](#), and
  - (ii) the firm was entitled immediately before IP completion day to continue to treat as a professional client by virtue of Section II.2 of Annex II to [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](#).
- (4) In paragraph (3)—
  - (a) “relevant firm”, in relation to a person, means an investment firm or qualifying credit institution which (in either case)—
    - (i) is the operator of a primary MTF, or
    - (ii) is to trade on a primary MTF on the person’s behalf;
  - (b) the reference to the Conduct of Business sourcebook is a reference to that sourcebook in the Handbook of Rules and Guidance published by the FCA under FSMA 2000, as it has effect from time to time.