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CONSULTATION RESPONSE:
CP25/36: CLIENT CATEGORISATION AND CONFLICTS OF INTEREST

Adempi Associates is a regulatory consultancy that provides advice and support to FCA authorised firms on navigating and implementing regulatory requirements. We support a range of firms across the investment, consumer credit and payments landscape. Many of our clients provide services to individuals and as such the topic of retail clients electing to be treated as professional clients is relevant.

We are broadly supportive of the FCA's decision to review the client categorisation framework and streamline conflicts of interest requirements. The current regime has created practical challenges for firms with different business models, and we welcome the opportunity to comment on proposals that could improve both client outcomes and operational efficiency. There are, however, specific areas where we believe the proposals require refinement to work effectively across the range of business models we advise. In particular:

- The introduction of "financial resilience" as a Relevant Factor risks blurring the line between capability assessment and suitability determination, creating disproportionate burdens for non-advisory firms
- The prohibition on firms initiating discussions about professional categorisation without a "reasonable basis" may be unworkable for digital-first businesses and platforms
- The proposed disclosure requirements for informed consent need clearer parameters to be deliverable in practice
- The requirement for one-off re-categorisation of existing elective professional clients appears disproportionate. It will also come with practical challenges for firms without retail permissions and where clients hold long-term illiquid investments

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ELECTIVE PROFESSIONAL CATEGORISATION

Q1: Do you agree with the deletion of the mandatory quantitative criteria from the qualitative assessment (other than for local authorities)?

Yes. We support the removal of the mandatory quantitative criteria.

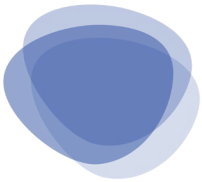
From our work with clients across various sectors, we have observed that these criteria have not functioned effectively in differentiating client capability. The frequency of trading requirement, for example, was designed with liquid securities markets in mind and has limited relevance for firms operating in unlisted investments, real estate, structured products, or other asset classes where transaction frequency is not a meaningful indicator of sophistication.

Q2: 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. We recognise that a wealth-based threshold, set at a sufficiently high level, can serve as a pragmatic alternative route to professional categorisation. The two-route structure provides flexibility that should accommodate different client circumstances.

Q3: 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. While we do think that a lower figure might align better with other jurisdictions, we also note the need for this to be a substantial enough level that no qualitative test is required. If the figure is to be set as high as £10 million, it is essential that the other route to opting up is workable and you will see we have comments on refining the “Relevant Factors” to achieve this.



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Q4: 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?

Partly. In general, the Relevant Factors appear sufficiently flexible to accommodate different business models and client circumstances across sectors. However, we have significant concerns about the Financial Resilience factor outlined at paragraph 3.50.

Including financial resilience fundamentally shifts the assessment from one of client capability (does this client have sufficient knowledge and experience to understand the risks?) to client suitability (does my firm determine that this service/ product is right for the client given their financial circumstances?).

Outside of advisory or discretionary managed relationships, it is not appropriate for firms to make judgments about what level of financial risk a capable client should assume. A client may have excellent understanding of complex financial products and choose to allocate a portion of their wealth in a manner that some might view as aggressive - but that is their decision to make, provided they understand the risks.

From our work with firms across multiple business models, we can identify several practical problems with incorporating financial resilience:

1. Data collection burden: Assessing financial capacity, risk tolerance and ability to bear losses requires collecting significantly more sensitive financial information than assessing knowledge and experience. This includes data about income, assets, liabilities, dependents, and future financial commitments.

2. Business model misalignment: Many of our clients operate as manufacturers, distributors, or platforms without the type of ongoing relationship that makes it appropriate to request detailed financial information. For example:
    - Asset managers who primarily interact with clients through initial onboarding
    - Corporate finance firms advising on specific transactions
    - Platform businesses operating digitally

- Real estate firms offering investments to clients sourced through introducer relationships

3. Liability concerns: Requiring non-advisory firms to assess financial resilience brings them closer to the role performed by advisers and discretionary managers. This may have unintended consequences for professional indemnity insurance requirements and liability exposure, particularly if clients later claim that losses were inappropriate given their circumstances - even where they had capability to understand the risks.

Our recommendation is that the Relevant Factors should focus on capability indicators such as knowledge, experience, professional qualifications, and demonstrated understanding of relevant product types. If the FCA considers that financial resilience needs to be addressed this should be done by ensuring clients understand resilience, rather than as external assessment to be done by the firm.

Q5: 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?

Partly. While the overall framework is clear, there are several areas where additional clarity or refinement would be beneficial:

1. Treatment of experience with specific product types (paragraph 3.55 and COBS 3.5.13G)

The proposal to introduce guidance stating that "a personal investment history mainly in speculative high risk or leveraged products or crypto assets is not usually an indicator of professional capability" creates confusion, particularly given the proposal for product/service-specific opt-ups.

If a firm offers complex derivatives, structured products, or other sophisticated instruments, and is assessing whether a client has relevant knowledge and experience for those specific products, it seems counterintuitive to prohibit consideration of the client's history with similar risk profiles or complexity levels.

We understand the FCA's concern that some clients may have lost money through speculative investments without truly understanding the risks. However, this should be addressed through the qualitative assessment itself - firms should evaluate whether the client's experience demonstrates genuine understanding, not simply exclude entire categories of experience from consideration.

Our recommendation is that rather than banning firms from considering certain types of experience that could be relevant, the FCA provides guidance that experience should be evaluated for what it demonstrates about capability.

2. Online assessments and self-assessment prohibition

The guidance at COBS 3.5.17R(2) states that firms must not "invite the client to undertake a self-assessment of the factors in (2) such as via an online form with click through access." We are concerned that this wording may be interpreted too broadly, particularly by digital-first businesses.

We work with multiple clients operating online platforms, mobile applications, and digital wealth services where all client interaction occurs through digital channels.

We understand the FCA wishes to prevent pure tick-box declarations where clients simply assert they meet criteria without any objective verification. However, meaningful assessment can occur online through:

- Knowledge testing with scenario-based questions
- Document verification and automated checks
- Interactive tools that gather evidence of experience
- Structured questionnaires that collect factual information about qualifications, employment history, investment history, etc.

The current wording "such as via an online form with click through access" could be interpreted to suggest that any online process is problematic simply because it involves clicking. The FCA should clarify that the concern

is with superficial self-declaration, not with the medium through which assessment occurs. Guidance could specify that:

- Firms must not rely solely on client declarations without gathering supporting evidence
- Online assessments are acceptable where they gather factual information and evidence
- The assessment must be designed to test or verify capability, not simply record client assertions

3. Clarity on general communications (COBS 3.5.17G(2)(c))

We note that without the clarification in COBS 3.5.17G(2)(c) that firms may provide general information about professional categorisation and its consequences before determining whether a client meets the conditions, it would be practically impossible for firms to engage clients in the assessment process.

However, the line between what is "general information" and what is a financial promotion can seem very grey to firms, particularly given the role of context in identifying whether something amounts to an inducement to engage in regulated activity. We presume this includes:

- Stating that the firm has products and services unavailable to retail clients
- Identifying the types of products or service in question
- Explaining that professional categorisation exists and what protections would be lost
- Describing the process and criteria for assessment

It may be helpful to draw on concepts from the financial promotions regime to help firms understand the boundary - for example, using analogies to "signposting" or "image advertising" that do not promote specific investments. We would highlight that a degree of flexibility here will be important to the regime being effective as clients are often unwilling to provide information to firms if they do not understand what they gain by doing so.

4. Technical drafting points

The clarification that for funds, it is the fund itself (not underlying investors) that is the client for categorisation purposes. From our work with asset managers and fund administrators, we are aware this has created confusion, and locating this guidance clearly within COBS 3 should improve consistency of approach.

In COBS 3.5.3R, conditions (4) and (5) need minor rewording to align with the opening statement "A firm may treat [a client as professional] if all of the conditions below are satisfied." The current wording of these conditions doesn't flow grammatically from this opening.

Q6: Do you agree that financial resilience as a Relevant Factor should be outcome based, without any minimum financial threshold?

Yes. However, please see our response to Question 4, where you will note out position is that we do not consider it appropriate to include financial resilience as a Relevant Factor at all, as it shifts the assessment from capability to suitability.

If the FCA determines that financial resilience must remain as a factor, we agree it should be outcome-based without prescriptive thresholds. Financial circumstances vary enormously, and what constitutes adequate resilience depends on individual context including age, income stability, existing assets, liabilities, and personal circumstances.

Prescriptive thresholds would be arbitrary and could create perverse outcomes - for example, preventing a salaried professional with stable income and modest outgoings from opting up, while permitting someone with higher wealth but also higher liabilities and dependencies.

Q7: 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. Product and service-specific opt-up provides valuable flexibility and better aligns with how firms actually operate.

From our advisory work, we see firms offering diverse product ranges with varying complexity and risk profiles. Allowing clients to opt up for specific products/services means:

- Clients can access more sophisticated offerings in areas where they have expertise while retaining protections elsewhere
- Firms can undertake more targeted assessments related to the specific capability required
- The regime is more proportionate - clients are not required to meet a universal "professional" threshold across all financial services

We see no disadvantage to also permitting general opt-up for clients who do have broad financial sophistication and wish to be treated as professional across the board.

Q8: Do you agree with our proposal to maintain the current qualitative and quantitative assessment for local authorities?

Yes. The specific provisions for local authorities reflect their unique characteristics and governance structures. Maintaining these seems sensible, and the FCA can keep this under review.

We note the consultation's acknowledgment that further pooling of Local Government Pension Schemes may change the landscape, at which point it would be appropriate to reconsider whether special treatment remains justified.

Q9: 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. Requiring informed consent is appropriate given the significance of opting out of retail protections. Professional categorisation results in the loss of multiple regulatory protections. Clients should actively consent to this change, understanding what they are giving up.

This also aligns with Consumer Duty principles regarding client understanding and informed decision-making.

Q10: 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. The proposed disclosure requirements, particularly at COBS 3.5.18R could undermine the effectiveness of the consent process. COBS 3.5.18R(1) requires firms to disclose "each of the protections from which the client would cease to benefit" and COBS 3.5.18R(2) requires "information about the intended benefit of each of the protections."

From our work helping firms interpret and implement regulatory requirements across multiple sectors, we can identify several concerns:

1. Difficulty in identifying "each" protection

Retail client protections are dispersed throughout the Handbook across multiple sourcebooks (COBS, PROD, PRIN, SYSC, DISP, COMP, etc.). Depending on the firm's permissions and business model, identifying every single protection that might not apply to a professional client is extremely complex.

For example, a full-service wealth manager will have a very different set of applicable protections compared to an execution-only platform, an asset manager offering funds, or a corporate finance adviser. Each would need to compile their own comprehensive list.

2. Risk of technical non-compliance

If firms must disclose "each" protection, any omission - even of minor or tangential protections - could potentially invalidate the consent. This creates significant legal risk, as clients (or their representatives in dispute situations) could argue consent was not properly informed due to omissions.

3. Explaining "intended benefit" is exceptionally burdensome

Requiring firms to explain the policy rationale behind each protection goes well beyond what firms can reasonably be expected to do. This would require:

- Researching the policy history of multiple rules, potentially going back to original consultation papers from years ago
- Interpreting the FCA's intent where this may not be explicitly documented
- Providing explanations that are accurate enough to satisfy regulatory scrutiny

This is effectively asking firms to provide regulatory policy analysis for potentially dozens of rules.

4. Tension with good communication practice

There is a broader trend in financial services regulation (including Consumer Duty) toward shorter, clearer communications that consumers actually read and understand. The proposed requirement seems to push in the opposite direction - toward lengthy, legalistic documentation that attempts to be comprehensive.

Research consistently shows that consumers do not engage with long disclosures. A 10-15 page document listing every retail protection and its policy purpose is unlikely to result in meaningful informed consent, even if it technically meets the requirement.

5. Inconsistency across firms

Without FCA-provided standard wording or a definitive list of protections, different firms will produce different disclosures. This creates inconsistency for clients who may be opting up with multiple firms, and makes it difficult to benchmark good practice.

To alleviate this, we strongly recommend that the FCA considers either providing a standard disclosure or allows firms to focus on key protections.

Option 1: The FCA could produce standardised disclosure wording covering key retail protections, similar to the approach taken with risk summaries for high-risk investments (COBS 4 Annex 1. Firms could use this standard wording, supplemented with any additional protections specific to their business model.

This would:

- Ensure consistency and accuracy
- Significantly reduce implementation costs
- Enable the FCA to craft wording that is clear and accessible to clients
- Reduce legal risk for firms
- Allow firms to focus on ensuring clients understand the disclosure rather than creating it

Option B: Principles-based requirement focusing on key protections
Rather than requiring disclosure of "each" protection, the rules could require disclosure of the categories of protection that are most significant, such as:

- Appropriateness assessments and related protections
- Disclosure and information requirements (e.g., costs and charges, product information)
- Complaint handling through the Financial Ombudsman Service
- FSCS protection eligibility
- Certain conduct requirements (e.g., best execution specifics, rules on inducements)

The requirement to explain "intended benefit" could be replaced with a requirement to explain in clear terms what the protection means in practice for the client.

Q11: 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?

Partly. We agree that firms must be able to initiate discussions about professional categorisation - without this, the regime would be unworkable. However, we have significant concerns about the requirement that firms may only do so where they have "a reasonable basis for believing the client will meet the conditions."
To have a "reasonable basis" for belief, firms typically need information about the client. But to gather that information, firms need to explain why they are asking for it and what the client might be able to access if they

meet certain criteria. Below are three broad business types that we think may struggle with identifying reasonable basis:

1. Technology-led businesses

Firms operating digital businesses such as online platforms, mobile apps, or robo-advice services are unlikely to have a pre-existing relationship with a prospective client before the client engages with them for the first time. The first meaningful interaction occurs when someone registers or begins an application process.

These firms cannot form a "reasonable basis" belief before initial contact, but their process may need them to triage investors so that they know what kind of products and services they can discuss. This is particularly poignant in the case of firms who only have professional client permissions, who may need to turn potential clients away. It would be helpful if the FCA could draft the rules in a way that firms receiving inbound approaches from clients to mention the option of professional categorisation.

2. Clients introduced through third parties

Some business models involve introducers, intermediaries, or referral relationships. A corporate finance firm, for example, might be introduced to a business owner as a potential client for a transaction. The firm may have limited information about the individual initially but through discussion might identify that professional categorisation could be appropriate.

4. Multi-product firms

Asset managers or wealth platforms offering both retail and professional products need to be able to explain their full range during marketing and onboarding. If they can only mention professional categorisation to clients they already suspect are eligible, they cannot effectively market their professional-tier offerings.

We understand the FCA wishes to prevent firms from inappropriately encouraging retail clients to opt up. However, we believe the existing safeguards are sufficient:

- Firms must conduct a robust capability assessment before categorising anyone as professional
- Firms must obtain informed consent with clear disclosures about lost protections
- The Consumer Duty requires firms to act in good faith and avoid foreseeable harm

- PRIN 2A.5.16R specifically requires firms to ensure their culture does not encourage prioritising firm interests over client outcomes

These requirements already prevent firms from pushing unsuitable opt-ups. Adding a restriction on when firms can even discuss the option creates disproportionate obstacles.

If additional rules are deemed to be necessary the FCA could require that:

- Any communication about professional categorisation must include prominent warnings about the protections that would be lost
- Marketing materials about professional-tier services must be balanced and make clear these are only available subject to meeting criteria
- Firms must not create incentives (e.g., lower fees, better access) that pressure retail clients to opt up inappropriately

This approach would allow legitimate business engagement while preventing misconduct.

Q12: 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?

No, not for all business models. As explained in our response to Question 11, the "reasonable basis" requirement will prevent appropriate engagement for firms that do not have pre-existing client relationships, particularly digital businesses and platforms.

Sophisticated investors need to understand that opting up is possible and what benefits it might offer them before they are willing to invest time in an assessment process or share detailed personal and financial information. If firms cannot explain that this information would enable access to a broader range of products or services, many potential professional clients simply will not engage.

The distinction between promotion and information:

Q13: 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. We agree that this approach is more proportionate than periodic reassessment.

Q14: 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?

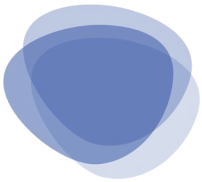
Mostly, but with some important caveats based on the concerns we've raised above.

What works well:

1. Removal of unhelpful quantitative criteria - This allows more meaningful qualitative assessment tailored to different products and sectors
2. Flexibility for product/service-specific opt-up - This proportionate approach means clients can access sophisticated services in their areas of expertise while retaining protections elsewhere
3. Informed consent requirements - Ensuring clients understand what they're opting out of is appropriate and aligns with Consumer Duty

What needs refinement:

1. Financial resilience as a Relevant Factor (Q4, Q6) - This shifts the assessment from capability to suitability in a way that is not appropriate for non-advisory firms and creates disproportionate data collection and assessment burdens
2. Restrictions on initiating discussions (Q11-12) - The "reasonable basis" requirement will prevent legitimate engagement, particularly for digital businesses and platforms
3. Disclosure requirements (Q10) - The requirement to identify and explain "each" protection is impractical and could undermine rather than enhance client understanding



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If these three areas are addressed, the proposals would strike an appropriate balance. As drafted, they risk creating obstacles that prevent capable clients from accessing appropriate services, pushing activity toward unregulated or overseas providers, or creating disproportionate compliance costs that ultimately fall on consumers.

Q15: 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. We support relying on existing safeguarding and governance rules rather than creating new opt-up-specific requirements.

Well-designed regulatory requirements should have broad application rather than being use-case specific. The principles and rules already in place - particularly Consumer Duty - are specifically intended to guide firm behaviour across all contexts and are as applicable to opting clients up to professional status as any other area of firm activity.

PER SE CATEGORISATION

Q16: 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, we consider this to be sensible rationalisation of the rules.

Q17: 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 to the first question and No to the second. It is sensible to exclude SPVs that sit under funds and the wider phrasing used in the definition to link the SPV to per se professional client provides flexibility and read across to comparable scenarios. However, we see two issues with the definition that the FCA may want to address:

- The current definition refers to a vehicle that is "established or managed" by a per se professional client. We would flag that only the second of these terms requires ongoing involvement of a per se professional client, and is an effective proxy for professional status. For example, you can have a vehicle established by a regulated firm (e.g. for administrative ease) but the relationship cease there, with no further services provided and all ongoing decisions being made by lay-directors of the SPV.
- Rather than extend the glossary definition of a 'special purpose vehicle' it would be cleaner to simply use the language about the per se professional client in the text of COBS 3 itself (we can only see one reference) or to create a separate glossary definition for this type of special purpose vehicle such as a Managed Special Purpose Vehicle.

Q18: 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 we agree that having different thresholds for MiFID and non-MiFID business added unnecessary complexity.

Q19: Do you currently categorise clients under the criteria we propose to remove?

No we are not a regulated firm.

Q20: Do you agree that pension trustees should currently continue to be treated as per se professional clients for non-MiFID business?

No view.

Q21: Do you agree with our proposals to clarify the record keeping requirements for client categorisation?

Yes, the proposals seem sensible.

Q22. 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. We consider that a wider group of firms will be affected than those referenced at paragraph 3.93, but fundamentally records should be kept by firms opting someone up so that the person can receive marketing about professional only products or with fewer COBS 4 disclosures.

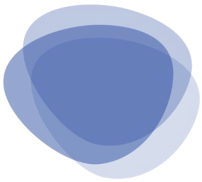
Q23. Do you agree with our proposal to clarify COBS 3.2.3R(4)?

Yes we agree that a fund, regardless of legal status, is the client of the firm but that for the purposes of financial promotions, the potential investor in that fund, who is receiving the promotion is the client for the purposes of that communication.

CLIENT CLASSIFICATION BEYOND THE HANDBOOK

Q24: How might the differences between our proposed changes to client categorisation and the other regimes affect you? Please explain your answer.

Harmonisation across regimes would be beneficial where possible. We work with firms subject to various regulatory frameworks including MiFID and AIFMD, and inconsistencies between regimes create complexity and potential for error. Over time, there may be frustrations and the potential for confusion if the categorisation does not track across to the AIFMD and POATR regimes.



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That said, subject to the amendments we have proposed, we consider this proposal to be a positive step and do not believe its implementation should be delayed for the sake of harmonisation alone. We recommend aligning the other regimes with this approach at the next suitable opportunity, rather than postponing progress now.

We have two exceptions to the above stances on harmonisation. Firstly, we think it is too early to comment on aligning the regime to PISCES. We would welcome a review of the investor categories under PISCES in future but the regime needs to have a chance to operate and build market confidence before being subject to change.

Secondly, we work with the Financial Promotions Order (FPO) regularly and do not see the need for the FCA rules to align with this. This is primarily a regime used by unregulated businesses, or when regulated firms chose to use an exemption (and circumstances allow for this). However, we would also flag that there is no real equivalent of an professional client in the FPO so alignment would require the creation of this and essentially would involve a widening of the categories of people who receive promotions under the FPO. The Investment professional option there is targeted government institutions and professional investors. For Uk individuals, only the High Net Worth or Sophisticated Investor routes are typically available within the FPO. Some of our clients find themselves straddling both FPO and COBS financial promotion regimes because different investor groups can only be accessed through different routes. We can see it might be cleaner cut for them to solely position their marketing under the FPO regime, but ultimately such a change would reduce what promotions are subject to FCA rules. Any changes would need careful consideration.

TRANSITIONAL ARRANGEMENTS

Q25: 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?

No. While we understand the FCA's desire to ensure all elective professional clients meet the new standards, a mandatory one-off re-categorisation would be disproportionately burdensome and may not improve client

outcomes. We would recommend allowing more flexibility so firms can make the decision about the point at which recategorization will be most beneficial for client outcomes.

We work with many private market participants and where their investors hold illiquid, long-term investments, and re-categorisation would cause disruption with no benefit as those firms cannot take meaningful action if the client was miscategorised.

Examples include:

- Venture capital and private equity - Investments typically held for 5-10+ years with no ability to exit until portfolio companies are sold or listed
- Real estate funds - Long-term property investments with limited or no redemption rights during the investment period
- Structured products - Fixed-term investments that cannot be unwound early without significant penalty
- Illiquid alternative investments - Infrastructure, private debt, and other alternatives with extended holding periods
- Corporate finance transactions - Clients who engaged firms for specific transactions that have completed, with no ongoing service provision

For clients holding such investments, re-categorisation during the investment period would achieve little:

1. No actionable outcome - The client cannot divest or alter their investment, so even if they were re-categorised as retail, this provides no practical benefit or protection during the holding period

2. May create false expectations - Contacting clients to re-categorise them could suggest that something can or should be done about their investment, potentially managing expectations inappropriately

3. Resource intensive with limited benefit - Firms would need to undertake extensive work to re-assess clients and obtain fresh informed consent, consuming resources that could be better directed toward genuine client needs

4. Administrative burden on clients - Professional clients (who may include business owners, senior executives, and other time-poor individuals) would need to engage with re-categorisation processes for investments that are simply running their course

5. Incomplete information - For investments made years ago, firms and clients may struggle to reconstruct the full circumstances and rationale, making a meaningful reassessment difficult

Rather than mandatory universal re-categorisation, we suggest that firms should be required to apply the new assessment framework:

- Before offering any new products or services to existing elective professional clients
- At the point of any natural review or renewal in ongoing relationships
- When there are changes to the nature of the relationship that would require fresh assessment in any case
- Where the firm has reasonable grounds to believe the client may no longer meet the criteria

We also note that some firms are only authorised to conduct business with professional clients or eligible counterparties and the FCA needs to consider what a good outcome looks like in this scenario. While we would not expect the firm in question to be able to continue to service who under the new regime would be classed as retail, the timing of when the firm ceases acting can make a material difference to the client experience.

Q26: If you are an authorised firm, do you anticipate our proposed changes could lead to you seeking to vary your part 4A permissions?

Not relevant. We are not an authorised firm.

CONFLICTS OF INTEREST

Q27: Do you agree with our proposed terminology changes? Do any of the proposed choices of terminology create any difficulties?

Yes. We support the proposed terminology changes. The consolidation and clarification of language should make the conflicts framework easier to understand and navigate.

From our work helping firms implement and maintain conflicts policies across diverse business models, we have observed that the current terminology can cause confusion, particularly where firms are subject to multiple overlapping regimes (MiFID, AIFMD, consumer credit, payment services, etc.). Streamlining and rationalising terminology should reduce this confusion.

The proposed changes appear well-explained in the consultation paper and we have not identified any terminology choices that would create difficulties for firms.

Q28: Do you agree with the proposed rationalisation of the conflicts of interest rules? Do our proposed changes make our rules on conflicts of interest easier to understand and navigate?

Yes. We are supportive of the proposals to consolidate and streamline the conflicts of interest rules.

Conflicts of interest requirements currently exist across multiple sourcebooks with varying language, creating complexity for firms trying to establish comprehensive conflicts frameworks. This is particularly challenging for:

- Groups with multiple regulated entities carrying on different regulated activities
- Firms with diverse permissions spanning different regulatory regimes
- Compliance teams trying to ensure consistent policy application across the business

Bringing the requirements together with consistent terminology and structure should make it easier for firms to identify all applicable requirements, reduce the risk of gaps or inconsistencies in conflicts policies, simplify training and embedding of conflicts management into firm culture and enable more efficient compliance monitoring

We note that the proposals appear to streamline and consolidate the rules without materially changing the underlying substance or reducing protections. This is the right approach - the goal should be to make existing requirements clearer and more accessible, not to water them down.

In our view, the conflicts framework also aligns well with Consumer Duty requirements, particularly:

- The requirement to act in good faith toward retail clients
- The obligation to avoid causing foreseeable harm
- The need to enable clients to pursue their financial objectives

Having a clear, navigable conflicts framework supports firms in meeting these broader duties.

PERSONAL ACCOUNT DEALING RULES

Q29: Do you agree with our proposal to amend the COBS 11.7 rules?

Yes, we agree with the proposal.

Q30: What is your view on whether the COBS 11.7A rules should be combined with the COBS 11.7 rules, using the revised language we propose in this CP? Should life policies also be excluded from the COBS 11.7A rules?

Yes, we generally support streamlining the Handbook where possible, and combining overlapping rules on the same topic should improve clarity and reduce the risk of confusion or gaps.

However, we would want to see the detailed drafting of any proposed consolidated rules consulted upon to ensure that:

- It is clear which requirements apply to which types of firms and activities
- There are no unintended consequences from the consolidation

Regarding the exclusion of life policies, we defer to firms operating in the life insurance sector who will have deeper insight into whether this creates any issues in practice.

COST BENEFIT ANALYSIS

Q31: Do you have any comments on our CBA?

No comment.

ADDITIONAL COMMENTS

Q32: Do you have any other comments on the proposals in this consultation?

The proposal to reform client categorisation is welcome and necessary. The current regime has created obstacles for capable clients accessing appropriate products and services, while not always effectively protecting those who need protection.

The proposed framework - built around meaningful capability assessment, informed consent, and existing safeguarding rules - is fundamentally sound. However, as we have outlined throughout this response, certain elements need refinement to work effectively across the diverse range of business models in the UK financial services market.

Please note: Adempi consents to being included in the list of non-confidential respondents to this consultation paper.