Nucleus transmission agreement

Edition 08
Date of publication 10/2026

1. Transaction reporting form

Discretionary fund managers or advisers with discretionary permissions, that are authorised by Nucleus to use the Nucleus wrap service, that wish to sign up to the Nucleus transaction reporting services are required to complete this form and agree to be bound by the terms of the Transmission Agreement attached at Appendix A of this form ("Transmission Agreement").

A. Details of firm

Firm name

Network name (if applicable)

FCA reference number

B. Firm signature

This form should be signed by a person authorised to sign on behalf of the firm detailed in section A of this form.

We would like Nucleus to undertake transaction reporting services on the terms set out in the Transmission Agreement.

We confirm that the information we have provided on this form is true and accurate.

We confirm that we have read and understood the Transmission Agreement and agree to be bound by its terms.

Authorised signatory name (Please print in block capitals)

Position

Signed

Date

2. Appendix A

PARTIES

THIS AGREEMENT is between Nucleus Financial Services Limited, a company incorporated under the laws of England and Wales, company number 05629686, having its registered offices at Suite B & C, First Floor, Milford House, 43-55 Milford Street, Salisbury, SP1 2BP ("Nucleus" or the "Receiving Firm"); and the firm detailed on the Transaction Reporting Form (the "Transmitting Firm"); (each a "Party" and together, the "Parties").

BACKGROUND:

- Nucleus provides, inter alia, a Platform Service (as defined below), in accordance with the terms of a separate agreement;
- The Transmitting Firm is subject to a Regulatory Obligation (as defined below) to report details of Relevant Transactions (as defined below), some of these orders may be placed using the Platform Service;
- The Transmitting Firm wishes to appoint Nucleus to undertake the reporting of Relevant Transactions as permitted by Article 4(1) of the Commission Delegated Regulation (EU) 2017/590; and
- Nucleus agrees to undertake the reporting of Relevant Transactions in accordance with the terms of this Agreement.

2. Appendix A continued

In consideration of the mutual representations, warranties and covenants contained in this Agreement and other good and valuable consideration, Nucleus and the Transmitting Firm agree as follows:

1. Definitions

The following definitions apply to this Agreement:

- "Business Day" means any day on which the London Stock Exchange is open for business;
- "Data Protection Legislation" means all applicable laws and regulations relating to the processing of personal data, privacy and electronic communications in force from time to time in the United Kingdom, including the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003, together with any applicable legally binding guidance, directions, codes of practice or regulatory requirements issued by the Information Commission or any other competent supervisory authority.
- "Execution" has the meaning given in Article 3 of Commission Delegated Regulation (EU) 2017/590;
- "FCA" means the Financial Conduct Authority or any successor or replacement regulator;
- "Insolvency Event" means in relation to a Party where: (i) an order is made or a resolution is passed for the winding up of that Party; (ii) an administration order is made in respect of that Party; or (iii) a receiver (which includes an administrative receiver) is appointed in respect of that Party; or (iv) that Party is unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986; or (v) any voluntary arrangement under section 1 of the Insolvency Act 1986 in respect of that Party.
- "Platform Service" means the online wealth management system provided by Nucleus which includes dealing, registration and portfolio management services, accessed at https://www.nucleusfinancial.net/wrap/ (or by any other means notified by Nucleus from time to time);
- "Relevant Data" means, with respect to a Relevant Transaction, the information required under Article 4(2) of the Commission Delegated Regulation (EU) 2017/590, and any other information required by Nucleus in order to perform the Reporting Services;
- "Relevant Transaction" has the meaning given to it in Article 2 of the Commission Delegated Regulation (EU) 2017/590;
- "Reporting Deadline" means the deadline for reporting the Relevant Transaction specified in Article 26 of Regulation 600/2014 (EU);
- "Reporting Obligation" means the obligation to report details of Relevant Transactions in accordance with Article 26 of Regulation 600/2014 (EU); and
- "Reporting Services" means the services described in Section 3 of this Agreement.

2. Commencement and Duration

(a). This Agreement shall commence on the date Nucleus receives the Transaction Reporting Form signed by an authorised signatory of the Transmitting Firm and shall continue until terminated in accordance with Section 8 of this Agreement.

(b). Nucleus shall provide the Reporting Services as detailed in this Agreement from the date Nucleus receives the Transaction Reporting Form signed by an authorised signatory of the Transmitting Firm.

3. The Reporting Services

The Parties agree as follows:

(a). The Transmitting Firm wishes to appoint Nucleus to undertake the reporting of Relevant Transactions as permitted by Article 4(1) of the Commission Delegated Regulation (EU) 2017/590;

(b). The Transmitting Firm agrees to provide Nucleus with the Relevant Data to enable Nucleus to carry out the reporting of Relevant Transactions that are placed using the Platform Service;

(c). Nucleus agrees to carry out the Reporting Obligation in respect of Relevant Transactions that are placed using the Platform Service, by submitting the Relevant Data to the FCA by the Reporting Deadline;

(d). Nucleus will determine in its sole and absolute discretion whether a Reporting Obligation has arisen;

(e). If Nucleus already holds Relevant Data relating to a Relevant Transaction, Nucleus will use such Relevant Data in carrying out the Reporting Obligation;

(f). If Nucleus requests that the Transmitting Firm provides Relevant Data, the Transmitting Firm agrees that it will send to Nucleus the Relevant Data requested in time for Nucleus to comply with the Reporting Obligation, and in any event no later than 4pm on the Business Day of the request from Nucleus, provided that such request is sent by Nucleus to the Transmitting Firm by 2pm that Business Day;

(g). If the Transmitting Firm fails to comply with Section 3(f), Nucleus will be under no obligation to carry out the Reporting Obligation (although Nucleus may still do so at its sole and absolute discretion);

(h). If either Party becomes aware of any error or omission in the Relevant Data, it will notify the other Party and both Parties will use reasonable efforts, acting in good faith, to resolve such error or omission.

2. Appendix A continued

4. Transmitting Firm Warranty

- The Transmitting Firm represents and warrants to Nucleus that the Relevant Data that Nucleus holds in respect of each Relevant Transaction (or that the Transmitting Firm provides to Nucleus or the third party reporting mechanism appointed by Nucleus) is, at the time of Execution of the Relevant Transaction, true, accurate and complete. On written request, Nucleus shall make available to the Transmitting Firm the Relevant Data that Nucleus holds to allow the Transmitting Firm to confirm the accuracy of such data.

5. Transmitting Firm Acknowledgment

The Transmitting Firm acknowledges and agrees that:

(a). Nucleus may utilise the services of a third party reporting mechanism to facilitate the submission of Relevant Data to the FCA. Nucleus may in its sole and absolute discretion appoint replacement or additional third parties to perform these services;

(b). by entering into this contract Nucleus does not assume responsibility or liability for the Transmitting Firm's compliance with the Reporting Obligation and that the Transmitting Firm remains solely responsible and liable for compliance with its Reporting Obligation generally;

(c). Nucleus shall not be required to do anything that is:

i). i. contrary to any law, rule or regulation; or

ii). ii. contrary to or inconsistent with the operating guidance and/or procedures of the FCA or the third party reporting mechanism that Nucleus uses to transmit Relevant Data as described in Section 5 (a);

(d). The Transmitting Firm will not report or arrange the reporting of the Relevant Data to the FCA for a Relevant Transaction when Nucleus is performing the Reporting Obligations for that Relevant Transaction;

(e). Nucleus is entitled to change how it performs the Reporting Service at any time if required to do so as a result of changes to law or to comply with instructions or guidance from the FCA.

6. Liability

(a). Nucleus and its directors, officers, employees, agents and contractors shall not have any liability to the Transmitting Firm (or any person claiming through the Transmitting Firm), whether in contract, tort (including negligence), for breach of regulatory or statutory duty or otherwise.

(b). Nucleus will be responsible to the FCA for completing the Reporting Obligation to the extent Nucleus takes on the Reporting Obligation as described in Section 3.

(c). The Transmitting Firm is responsible for the provision of accurate Relevant Data to Nucleus and for providing the Relevant Data in the form and within the timescales requested by Nucleus as described in Section 3(f).

(d). Neither Party limits liability for death or personal injury arising from its negligence (or its officers, agents or employees) or any other matter in respect of which liability cannot be limited by law.

7. Confidentiality and Data Protection

(a). Each party (a "Recipient") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by the other party (a "Discloser") or its agents, and any other confidential information concerning the Discloser's business or its products which the Recipient may obtain. The Recipient shall restrict disclosure of such confidential material to such of its employees, agents, service providers or sub-contractors as need to know the same for the purpose of discharging its obligations under this Agreement, and shall ensure that such employees, agents, service providers or sub-contractors are subject to obligations of confidentiality corresponding to those which bind each party.

(b). The Transmitting Firm shall ensure that transmission of Relevant Data to Nucleus and onward transmission by Nucleus to a third party as described in Section 5(a) and the FCA is compliant with Data Protection Legislation and that the Transmitting Firm's privacy notices are clear and provide sufficient information to individuals for them to understand what Relevant Data is shared with Nucleus and third parties.

2. Appendix A continued

8. Amendment and Termination

(a). Nucleus may, by written notice to the Transmitting Firm, amend this Agreement to accommodate any change in law, rule, regulation or operational requirement.

(b). Either Party may terminate this Agreement by giving thirty (30) days written notice to the other Party's registered address. Such termination will be effective at the expiry of the notice period.

(c). Notwithstanding Section 8(b) of this Agreement, either Party (the "First Party") may terminate this Agreement immediately by written notice to the other Party if the other Party (the "Defaulting Party"):

i). fails to perform or observe any of its obligations under this Agreement which relates to a material obligation or amounts to a material default in relation to an obligation that cannot be remedied; or if it can be remedied but it is not remedied within 30 Business Days from receipt by the Defaulting Party of a notice from the First Party specifying the failure or default and requiring it to be remedied;

ii). does not hold or loses any regulatory or governmental permission, authorisation or licence required to perform its obligations under this Agreement, or any such permission, authorisation or licence is suspended or restricted to any material extent;

iii). suffers an Insolvency Event; and/or

iv). the First Party is requested to do so by the FCA or any other regulatory or governmental body with jurisdiction over its activities.

(d). This Agreement will terminate automatically from the date the agreement between Nucleus and the Transmitting firm for the provision of the Platform Service terminates.

(e). The provisions of Sections 6 (Liability), 7 (Confidentiality and Data Protection) and 9 (General) shall survive the expiration or termination of this Agreement.

9. General

(a). This Agreement, contains the entire agreement between the Parties relating to the Reporting Service and supersedes any oral communication and prior writings with respect thereto. Each of the parties acknowledges that in entering into this Agreement it has not relied on any oral or written representation, warranty or other assurance.

(b). If, and in so far as any provision (or part of any provision) of this Agreement is held by any court or other competent authority to be invalid, illegal or unenforceable for any reason, that provision or part of that provision shall be deemed not to form part of this Agreement and shall not affect the other provisions of this Agreement which shall continue in full force and effect. The Parties undertake to negotiate in good faith to agree a valid and enforceable provision which achieves to the greatest extent possible the Parties' original commercial intention.

(c). No failure or delay by a Party to exercise any right or remedy under this Agreement or available at law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

(d). A person who is not a party to this Agreement has no right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999. The rights of the Parties to terminate rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to this Agreement.

(e). If Nucleus is prevented, hindered or delayed from or in performing any of its obligations under this Agreement as a result of reasons outside of Nucleus's reasonable control (including, but not limited to, any natural, systems, facilities, technological, political or other cause and whether in respect of the FCA, Nucleus, third party or otherwise), such obligation(s) shall be suspended for so long as that event continues.

(f). This Agreement may not be assigned by either of the Parties without the prior written consent of the other Party, such consent not to be unreasonably withheld. For the avoidance of any doubt, Nucleus has the right (at its sole discretion) to sub-contract the provision of services under this Agreement to third party service providers, save that Nucleus shall at all times retain ultimate responsibility for the performance of its obligations set out in this Agreement.

(g). This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, each of which so executed and delivered shall be an original and shall constitute an execution by the Parties of this Agreement for all purposes. Each counterpart, when executed and delivered shall together constitute one and the same agreement.

10. Governing Law

This Agreement and all matters relative to or in connection with it shall be governed by and construed in accordance with English law and each Party hereby submits to the non-exclusive jurisdiction of the Courts of England and Wales.

For literature in alternative formats, such as Braille, large print, audio or E-text, please call us on 0131 226 9535, or via the Relay UK service on 18001 0131 226 9535.

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10-2026