

Wholesale Investor Certificate

This certificate is for use by an investor who is seeking to invest in regulated financial products on the basis that they are a wholesale investor for the purposes of Schedule 1 of the Financial Markets Conduct Act 2013 (the Act).

Important Information

The law normally requires people who offer financial products to give information to investors before they invest. This information is designed to help investors make an informed decision.

If you give this certificate, the usual rules do not apply to offers of financial products made to you. As a result, you may not receive a complete and balanced set of information.

You will also have fewer other legal protections for these investments. Make sure you understand these consequences.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

Offence

It is an offence to give a certificate knowing that it is false or misleading in a material particular. The offence has a penalty of a fine not exceeding \$50,000.

Very generally, a wholesale investor is any of the following:

- An investment business.
- Meets the required investment activity criteria.
- Is certified as an 'eligible investor' and that certification has been confirmed in writing by an independent lawyer, qualified statutory accountant or financial adviser.

Each of the above categories is explained more fully in the body of this certificate.

To:

From:

Transaction:

Acknowledgement

You certify that you understand the consequences of certifying yourself to be a *wholesale investor*, including (without limitation) that:

- you will be treated as a **wholesale investor** for the purposes of the Act, and
- disclosure under the Act will not need to be made to you in relation to any **financial products** (as defined in the Act) you acquire and you may not have access to all of the legal protections which would apply if you did not certify yourself as a **wholesale investor**.

Certification

You certify that you are a **wholesale investor**, as defined in Schedule 1, Part 1 of the Act under clause 3(2) or clauses 3(3)(a) and 41.

Please tick the relevant *wholesale investor* category that you fall into (if more than one category applies, please tick each relevant category):

- you are an **investment business** (also tick the relevant subcategory in part 1 of Schedule 1)
- you meet the **investment activity criteria** (also tick the relevant subcategory in part 2 of Schedule 1)
- you are an **eligible investor** (also tick the sub-category in part 5 of Schedule 1, arrange for Schedule 2 to be completed and signed by an independent lawyer, qualified statutory accountant, or authorised financial advisor, and detail your experience with **financial products** in the **Appendix**).

Signed:

Print name of Proposed Investor

Print name and title of authorised signatory
(if applicable)

Signature of Proposed Investor/authorised
signatory (as applicable)

Date

SCHEDULE 1

Grounds for Qualifying as a Wholesale Investor

Investment Business

You are a **wholesale investor** by reason of being an **investment business**, as defined in clauses 3(2)(a) and 37 of Schedule 1 to the Act on the grounds that:

- your principal business consists of 1 or more of the following:
 - investing in **financial products**
 - acting as an **underwriter**
 - providing a **financial advice service** (as defined by the Act)
 - providing a **client money** or **property service** (as defined by the Act)
 - trading in **financial products** on behalf of other persons
- you are a **registered bank** (as defined in the Act)
- you are a **NBDT** (as defined in section 5 of the Non-bank Deposit Takers Act 2013)
- you are a **licensed insurer** (as defined in section 6(1) of the Insurance (Prudential Supervision) Act 2010)
- you are a **manager** of a **registered scheme** (as defined in the Act), or a **discretionary investment management service** (as defined in the Act) that holds a market services licence issued under Part 6 of the Act
- you are a **derivatives issuer** (as defined in the Act) that holds a market services licence issued under Part 6 of the Act, or
- you are a **financial adviser** (as defined in the Act).

Investment Activity Criteria

You are a **wholesale investor** by reason of satisfying the **investment activity criteria** set out in clauses 3(2)(b) and 38 of Schedule 1 to the Act on the grounds that you:

- own, or at any time during the two-year period ending on the date of this certificate, have owned, a portfolio of **specified financial products**¹ of a value of at least \$1 million in aggregate (**specified financial products** owned by an entity **controlled**² by you may be treated as being owned by you)
- have, during the two-year period ending on the date of this certificate, carried out one or more transactions to acquire **specified financial products** where the amount payable under those transactions (in aggregate) is at least \$1 million and the other parties to the transactions are not *associated persons* (as defined in the Act) (transactions carried out by an entity **controlled** by you may be treated as being carried out by you), or
- are an individual who has, within the last 10 years before the date of this certificate, been employed or engaged in an investment business and have, for at least two years during that 10-year period, participated to a material extent in the investment decisions made by the investment business.

¹ In this context, **specified financial products** is defined in clause 38(4) of Schedule 1 to the Act as being **financial products** other than prescribed financial products (i.e., bank term deposits or a call debt security – see section 5 of the Financial Advisers Act 2008), interests in a retirement scheme, or **financial products** issued by an **associated person**.

² You **control** an entity if you are that entity's **holding company** (as defined section 5 of the Companies Act 1993) or if you have the capacity to determine the outcome of decisions about that entity's financial and operating policies. You do not **control** an entity merely because you and another person jointly have the capacity to determine the outcome of decisions about that entity's financial and operating policies.

Eligible Investor

You are a **wholesale investor** because you are an **eligible investor** (as defined in clauses 3(3)(a) and 41 of Schedule 1 to the Act) on the grounds that:

- you have previous experience in acquiring and/or disposing of **financial products** that allows you to assess:
 - the merits of the Transaction (including assessing the value and the risks of the **financial products** involved in the Transaction)
 - your own information needs in relation to the Transaction, including the amount of information, and the level of detail, you require about the Transaction, and
 - the adequacy of the information provided to you by any person involved in the Transaction
- you understand the consequences of certifying yourself to be an **eligible investor** for the purposes of the Act, and
- the grounds for your certification that you have previous experience in acquiring or disposing of **financial products** are as set out in the Appendix to this certificate.

Schedule 2

**Confirmation of Eligible Investor: For Execution by a Lawyer,
Qualified Statutory Accountant or Financial Adviser**

From: [Name] (Certifier)

In respect of: [Name] (Proposed Investor)

Nature of Certifier: [Lawyer / Qualified Statutory Accountant / Financial Adviser]

While making no certification regarding the merits of the Transaction, having considered the Proposed Investor's grounds for certifying that they are an **eligible investor** for the purposes of the Act (as set out in the Appendix to this certificate), I:

- am satisfied that the Proposed Investor has been sufficiently advised of the consequences of the certification; and
- have no reason to believe that the certification is incorrect or that further information or investigation is required as to whether or not the certification is correct.

I further confirm that:

- I am a [**lawyer / qualified statutory accountant / financial adviser**] (as defined in the Act)
- I am not an **associated person** (as defined in section 12(1) of the Act) of the Offeror, provider or other relevant person, and
- I have not provided professional services to the Offeror, provider or other relevant person, or a **related body corporate** (as defined in section 12(2) of the Act) of the Offeror, provider, or other relevant person, in the 2-year period immediately prior to the date of this certificate, and will not provide professional services to the Offeror, provider or other relevant person prior to the completion of the Transaction.

Signed:

Print name

Print title

Print name of firm

Signature

Appendix

Proposed Investor's Grounds for Certification as an Eligible Investor

[If you are investing as an eligible investor (option 5 in Schedule 1 to this certificate), insert the grounds on which you qualify as having experience in acquiring and/or disposing of financial products (e.g., previous personal experience acquiring or disposing of financial products, experience as a director of a company that was involved in the acquisition or disposal of financial products, and/or other investment activities relating to the acquisition or disposal of financial products).]