

The following is a list of categories of wholesale clients for the purpose of offering interests in a managed investment scheme.

1. \$500,000 Investment

- 1.1 Generally, a person investing \$500,000 in a managed investment scheme will be a wholesale client.
- 1.2 In calculating the \$500,000 amount, amounts invested by the person, their associates and controlled or wholly owned bodies corporate can be aggregated, if the interests are issued at or around the same time.

Conditions/Exclusions

- 1.3 The following are excluded in calculating the \$500,000 threshold
 - a. superannuation sourced money (see below); and
 - b. amounts loaned by the scheme operator or their associate to the investor.

2. Gross Income/Net Asset Test

- 2.1 A person who has:
 - (a) net assets of at least \$2.5 million; or
 - (b) gross income over the past 2 financial years of at least \$250,000 per annum, will be a wholesale client.

Conditions/Exclusions

- 2.2 A certificate confirming the net asset or gross income position must be obtained from a qualified accountant and given to the scheme prior to the issue of interests. Qualified accountants include members of Chartered Accountants Australia and New Zealand, CPA Australia and of the Institute of Public Accountants. Investors in certain foreign countries can obtain the certificate from a qualified accountant in that country.
- 2.3 An example of the form of the certificate is included at Annexure A.
- 2.4 The certificate cannot be more than 24 months old at the time it is given to the scheme.
- 2.5 In calculating net assets or gross income, assets and income of a company or trust controlled by the person will be included.

Examples

- a. Mr Smith earned a gross income of \$150,000 per annum for the last two financial years and controls a company which earned gross income of \$100,000 per annum over the last two financial years. These amounts can be aggregated and Mr Smith will be a wholesale client.
- b. Mr and Mrs Smith have combined income of \$250,000 per annum for the last two financial years. They do not count as a wholesale client either separately or together.
- c. Mr and Mrs Smith jointly control a trust which has net assets of \$2.5 million. Neither Mr nor Mrs Smith qualify in their own right, nor do they qualify together, as a wholesale client.

However, the trustee investing in its capacity as trustee of a trust will qualify as a wholesale client.

- d. Mr Smith has net assets of \$2.5 million, including \$1 million net assets in his self managed superannuation fund of which he is the only member. Mr Smith is a wholesale client.
- e. Mr Smith is the beneficiary of a discretionary trust. Mr Smith is unable to include all or a portion of the value of the trust assets in calculating his net asset position.
- f. Mr Smith has units in a unit trust. Mr Smith can count the value of those units as an asset in determining his net asset position.
- g. Mr Smith is the sole trustee and member of his self-managed superannuation fund and the fund has net assets of \$2.5 million. Mr Smith investing in his capacity as trustee of the self-managed superannuation fund will qualify as a wholesale client.

3. Use in a Business

3.1 If the investor is acquiring an interest in the scheme for use in connection with a business, the investor will be a wholesale client.

Conditions/Exclusions

3.2 This does not apply if the business is a small business. A small business is:

- a. in the case of a business which manufactures goods, a business employing less than 100 people; or
- b. in the case of any other type of business, a business employing less than 20 people.

4. Professional Investor

4.1 A professional investor, and a wholly-owned subsidiary of a professional investor which is a body corporate, is a wholesale client.

4.2 A professional investor includes:

- a. a financial services licensee;
- b. a body regulated by APRA, excluding the trustee of a superannuation fund, approved deposit fund, pooled superannuation trust or public sector superannuation scheme (self-managed superannuation funds are a superannuation fund for this purpose and are primarily regulated by the ATO and not APRA and therefore do not fall within this category);
- c. the trustee of a superannuation fund (which includes self-managed superannuation funds), approved deposit fund, pooled superannuation trust or public sector superannuation scheme and the fund, trust or scheme has net assets of at least \$10 million (eg for a superannuation fund to be a professional investor it must have net assets of at least \$10 million);
- d. a body registered under the Financial Corporations Act 1974;
- e. a person who has or controls gross assets of at least \$10 million (including assets held by an

associate or under a trust the person manages);

- f. a listed entity or related body corporate of a listed entity;
- g. an exempt public authority;
- h. a company or unincorporated body which:
 - i. carries on a business of investing in financial products, interests in land or other investments; and
 - ii. invest funds raised from offers to the public for such purpose; and
- i. the person is a foreign entity which, if established or incorporated in Australia, would fall within one of the preceding paragraphs.

5. Sophisticated Investor

5.1 A sophisticated investor (as explained below) is a category of wholesale client

5.2 A financial services licensee may certify a person as being a sophisticated investor where the person has previous experience in using financial services and investing in financial products that allows them to assess:

- a. the merits of investing in the scheme;
- b. the value of investing in the scheme;
- c. the risks associated with investing in the scheme;
- d. their own information needs; and
- e. the adequacy of the information given to them by the scheme operator.

Conditions/Exclusions

5.3 The certificate must be in writing and

- a. set out the reasons for which the financial services licensee reasonably believes the person is a sophisticated investor, and
- b. include an acknowledgment by the person that:
 - i. the interest they are acquiring in the scheme is not for use in connection with a business;
 - ii. they:
 - A. have not received any disclosure documents (such as a product disclosure statement); or
 - B. are not owed any other obligations by the financial services licensee under Chapter 7 of the Corporations Act 2001 (Cth);

that they would otherwise be entitled to if they were retail clients.

5.4 An example of the form of the Certificate is included in Annexure B.

6. Controlled Entities

- 6.1 A company or trust controlled by a wholesale client is taken to be a wholesale client.
- 6.2 A related body corporate of a company which is a wholesale client is taken to be a wholesale client.

Examples

- a. Mr Smith has net assets of \$2.5 million and is a wholesale client. If he establishes a \$2 shelf company of which he is the sole director and shareholder, that company will also be a wholesale client.
- b. If a parent company is a wholesale client, all other companies within the corporate group automatically qualify as wholesale clients.

7. Superannuation Sourced Money

- 7.1 For the purposes of calculating whether an investor has invested \$500,000 for determining wholesale client status money is excluded if it will be, or has been in the previous six months, paid to the investor as an eligible termination payment (ETP) by the trustee of a regulated superannuation fund.
- 7.2 Generally, an ETP is a payment made from a superannuation fund to a member (i.e. a person who is entitled to access their superannuation). This is to be contrasted with an investment by a superannuation fund, via its trustee, which is not an ETP.
- 7.3 The criteria for a regulated superannuation fund are as follows:
 - a. a fund whose trustee is a company, where the fund's governing rules require the trustee to be a company; or
 - b. a pension fund; and
 - c. the trustee has notified APRA or the ATO that the Superannuation Industry (Supervision) Act 1993 is to apply to the fund.
- 7.4 Also, the restriction on excluding superannuation sourced money in determining the amount invested only applies if the product issuer knows, or ought reasonably to have known, the investment moneys fell within this category.
- 7.5 Therefore the following is not superannuation sourced money and will be included in determining the amount invested:
 - a. moneys invested by superannuation funds, including self-managed superannuation funds, public offer superannuation funds and pooled superannuation trusts (as such moneys are not ETPs and pooled superannuation trusts are not regulated superannuation funds); and
 - b. moneys which would be superannuation sourced money but where the issuer does not know, or would not reasonably be expected to know, this. For example, if the issuer does not know the wholesale client it is unlikely the money will be excluded as generally the issuer, unless notified otherwise, will have no way of knowing that the investment is an ETP from a regulated superannuation fund. An acknowledgement to this effect on the application form can assist the issuer's position that it did not know, and would not reasonably be expected to have known, the investment money was superannuation sourced money.

Annexure A - Certificate by Accountant

Wholesale Client - section 761G Corporations Act 2001 (Cth)

1 Applicant Details

Full Name of Applicant

2 Qualified Accountant* Details

Full Name of Accountant

Name of Accountant's Professional Body (e.g. Chartered Accountants)

Name of Firm & Registered Address of Firm

Membership Number

Suburb

State

Contact Number

Post code

Country

Email Address

3 Declaration by Qualified Accountant*

I, the qualified accountant* named above, certify that the following is true and correct:

- a. I am a qualified accountant*,
- b. this certificate is given at the request of the applicant described above in relation to the acquisition of a financial product;
- c. the applicant is known to me and for the purposes of section 761G(7)(c) Corporations Act 2001 (Cth) (Corporations Act) the applicant, either personally or in conjunction with a company or trust controlled by the applicant, has:
 - i. net assets of at least \$2.5 million; or
 - ii. a gross income for each of the last two financial years of at least \$250,000 a year; or
- d. the applicant is a company or trust controlled by a person known to me for the purposes of section 761G(7)(c) Corporations Act who has:
 - i. net assets of at least \$2.5 million; or
 - ii. a gross income for each of the last two financial years of at least \$250,000 a year; or
- e. the applicant is a body corporate and a related body corporate of the applicant, for the purposes of section 761G(7)(c) Corporations Act, has:
 - i. net assets of at least \$2.5 million; or
 - ii. a gross income for each of the last two financial years of at least \$250,000 a year.

Signature of Qualified Accountant*

Please print full name

Date signed (DD/MM/YYYY)

/ /

* Qualified accountant means a member of a professional body that is approved by ASIC in writing for the purposes of the definition. ASIC has indicated that for the purposes of the relevant definition it will approve any member of:

- a. CPA Australia (CPAA) who is entitled to use the post nominals 'CPA' or 'FCPA' and is subject to and complies with CPAA's continuing professional development requirements;
- b. Chartered Accountants Australia and New Zealand (CA ANZ) who is entitled to use the post nominals 'CA', 'ACA' or 'FCA' and is subject to and complies with CA ANZ's continuing professional education requirements;
- c. the Institute of Public Accountants (IPA) who is entitled to use the post nominals 'AIPA', 'MIPA' and FIPA' and is subject to and complies with the IPA's continuing professional education requirements; or
- d. a member of an eligible foreign professional body** who has at least three years practical experience in accounting or auditing and is providing a certificate for the purpose of section 761G(7)(c) Corporations Act to a person who is resident in the same country (being a country other than Australia) as that member.

** Eligible foreign professional body means each of the following; American Institute of Certified Public Accountants, Association of Certified Chartered Accountants (United Kingdom), Canadian Institute of Chartered Accountants, Institute of Chartered Accountants New Zealand, Institute of Chartered Accountants in England and Wales, Institute of Chartered Accountants in Ireland and Institute of Chartered Accountants of Scotland.

Annexure B - Certificate by Australian financial services licensee

Wholesale Client - section 761GA Corporations Act 2001 (Cth)

1 Client Details

Full Name

2 AFSL Holder Details

Full Name

AFSL No

Unit, Street Number & Street Name

AR No

Suburb

State

Contact Number

Post code

Country

Email Address

3 Statement by AFSL Holder

I, am an authorised representative/representative of the AFSL Holder and confirm:

- a. I am authorised by the AFSL Holder to issue this certificate;
- b. the Client is known to me and I am satisfied on reasonable grounds that the Client has previous experience in using financial services and investing in financial products that allow the Client to assess:
 - i. the merits of the Offer;
 - ii. the value of the Offer;
 - iii. the risks associated with the Offer;
 - iv. the Client's own information needs; and
 - v. the adequacy of the information given by the AFSL Holder and the issuer of the Offer

- c. The 'Offer' is:
[#insert details of the 'Offer']
- d. the reasonable grounds referred to in (b) above are the merits of the Offer;
 - i. [#the Client has been a significant investor in the following investments...]
 - ii. [#the Client has been my client for [#insert] years having undertaken a number of investments which exceed \$[#insert]]
 - iii. [#the Client is a director/senior officer/investment manager of [#insert] which a professional investor and the Client has been involved in the investment decisions of [#insert]]
 - iv. [#insert]

Signature of representative

Please print full name

Date signed (DD/MM/YYYY)

/ /

4 Statement and acknowledgment by the Client

I am the person referred to in paragraph 1 above. I have read this certificate, understand its contents and acknowledge that:

- a. the financial product or service I am receiving is not for use in connection with a business+;
- b. the Licensee has not given me a product disclosure statement++;
- c. the Licensee has not given me any other document that would be required to be given to me under Chapter 7 of the Corporations Act if the Offer was provided to me as a retail investor; and
- d. the Licensee does not have any other obligation to me under Chapter 7 that the Licensee would have if the Offer was provided to be as a retail investor.

+ Used in connection with a 'business' refers to where the Client may be purchasing a financial product relevant to the conduct of a business, for example business interruption insurance. It does not refer to where, for example, the Client is in the business of investing and has therefore participated in the Offer.

++ A product disclosure statement is an offer document which is required by the Corporations Act to be provided to any person who is a retail investor and is seeking to acquire a financial product

Signature of Client

Please print full name

Date signed (DD/MM/YYYY)

/ /

Signature of Witness

Please print full name

Date signed (DD/MM/YYYY)

/ /