

Guidance Notes to the Criteria for Managed Funds



Date last updated 22 March 2023

Note: Guidance notes will be updated from time to time.

1. Background and further information

- a) This document provides guidance to Managed Funds completing the application form to be assessed by New Zealand Trade and Enterprise ("NZTE") as an acceptable investment for the purposes of the Active Investor Plus ("AIP") visa. This document is a guide only and is not a substitute for the AIP Visa Immigration New Zealand Instructions ("Immigration Instructions"). You are responsible for reviewing the Immigration Instructions to ensure you have addressed all relevant criteria in your application (note: the Immigration Instructions may be updated from time to time).
- b) You should refer to these guidance notes if you are the issuer of a Managed Investment Scheme (as that term is defined in the Financial Markets Conduct Act 2013) ("MIS") or the provider of a Discretionary Investment Management Service (as that term is defined in the Financial Markets Conduct Act 2013) ("DIMS"). In these guidance notes, the term "Managed Fund" is used to refer to both Managed Investment Schemes and DIMS.
- c) Any references to "you" or "your" in this document are to the applicant.
- d) Download the application form from [NZTE's AIP "Managed Funds" webpage](#), under the "Submit an application" section.

Guidance Notes to the Criteria for Managed Funds



2. Qualification criteria

The criteria against which NZTE will assess whether a Managed Fund is an acceptable investment is set out in paragraphs 2 to 9 of Appendix 15 of the Immigration Instructions. In making an assessment, NZTE will have regard to the “Objective” and “Principles” of the AIP visa as set out in the Immigration Instructions (refer to sections 2a and 2b below).

a) Objective (BN1 of the Immigration Instructions)

The objective of the AIP visa category is to attract skilled and experienced active investors to help build globally successful New Zealand businesses that align with Government’s objectives, by providing resident visas to those who wish to participate in New Zealand’s investment ecosystem and make a significant contribution to New Zealand’s economy.

b) Principles (per paragraph 1 Appendix 15 of the Immigration Instructions):

Principles means the principles for assessing whether direct investments or managed funds are acceptable investments, being an investment:

- i. that clearly contributes to the Government’s economic strategy (by being high growth potential firms or contributing to positive social and economic impacts);

NZTE comment: The investment strategy of the Managed Fund must principally be to support the economic or other growth of private New Zealand businesses¹. The application form must detail how the Managed Fund will deliver on this Principle and the requirements for actual or potential growth of investee entities and/or their contribution to positive social and economic impacts for New Zealand.

For the avoidance of doubt, an investment strategy that involves the holding of (either directly or indirectly) non-private companies (e.g. listed equities) and/or fixed income assets (e.g. bonds) will not be eligible. A Managed Fund may utilise a debt or equity strategy to invest into private businesses, however an AIP visa applicant (“AIP investor”) cannot invest into a Managed Fund using a debt security.

Generally, any Managed Fund where more than 20% of its portfolio is in entities engaged in the acquisition, development, ownership, leasing, management and operation of property assets will not be an acceptable investment (this includes residential or commercial land development, horticulture, farming and forestry assets). However, there may be circumstances in which a Managed Fund that substantially invests (or plans to invest) in entities involving real estate or property assets may be considered an acceptable investment, including if:

- the entity or entities contribute to the New Zealand Government’s economic strategy; and
- the entity’s or entities’ underlying business model is not a pure play on real estate and property assets but delivers an additional value-add compared to stand-alone real estate properties.

Note: All property for personal use (e.g. residential) is excluded from qualifying as an acceptable investment.

¹ See Appendix 15 for the definition of entities with a New Zealand connection.

Guidance Notes to the Criteria for Managed Funds



- ii. is into legitimate Investee Entities or Managed Funds and proper verification is conducted to ensure this; and

NZTE comment: Information captured in the application form enables NZTE to complete 'know your customer' and character assessments on the applicant. Further, applicants are required to provide information on the investment decision making process employed by the fund manager, general partner or DIMS licensee. This includes detail on the verification, diligence and reporting processes to demonstrate that appropriate risk management procedures are or will be followed by the Managed Fund. This is not a test of the Managed Fund's financial health and growth potential, which is for the investor to ascertain.

- iii. does not prejudice New Zealand's reputation as a responsible member of the world community.

NZTE comment:

The application must detail how the Managed Fund supports New Zealand being a responsible member of the world community (e.g. any ESG policies or frameworks and how they are applied to investment decision-making and the ongoing monitoring of investee entities).

The investment policies and controls of the Managed Fund should demonstrate that the Managed Fund will not invest in anything which may prejudice New Zealand's reputation. Examples of business activities which may prejudice New Zealand's reputation include (but are not limited to) those which:

- relate to the manufacturing of tobacco or other nicotine-based products;
- relate to gambling, casinos and equivalent enterprises;
- relate to adult entertainment;
- relate to extractive industries (e.g. mining of minerals or other geological materials, water bottling, oil and gas);
- relate to the manufacturing of weapons, including:
 - military weapons;
 - controversial weapons (cluster munitions, landmines, biological and chemical weapons, nuclear weapons and depleted uranium);
 - civilian firearms;
- involve the use of child labour, forced or compulsory labour, or other human right abuses;
- promote any form of discrimination based on race, culture, gender, sexual orientation, or other prohibited grounds;
- are illegal in the country in which the good or service is used or intended to be used; or
- are likely to have a materially adverse impact on the climate or environment.

Guidance Notes to the Criteria for Managed Funds



c) **New Zealand Resident Entity (BN7.10.20 of the Immigration Instructions)**

The fund manager of a Managed Investment Scheme or DIMS Licensee of a Discretionary Management Service must be a “New Zealand Resident Entity” defined in the Immigration Instructions as a body corporate that:

- i. is incorporated in New Zealand; and
- ii. has its head office in New Zealand; and
- iii. has its centre of management in New Zealand; and
- iv. has control, by company directors, exercised in New Zealand.

NZTE comment: You are required to self-certify the above in the application form.

We recommend that you review paragraphs 299 – 341 of Inland Revenue's most [recent guidance on tax residency for companies](#) before you certify that you meet the definition of being a New Zealand Resident Entity. If you are unsure of whether you will meet each definition, we recommend that you seek advice from a tax advisor.

The fund manager of a Managed Investment Scheme must evidence General Partner and Limited Partnership incorporation. A DIMS Licensee must evidence that the DIMS is an incorporated company.

NZTE comment: NZTE generally expects that a Limited Partnership will be registered prior to its inclusion on the Acceptable Managed Fund List, but an application can be progressed prior to registration provided the general partner and/or fund manager have been incorporated.

d) **Appropriately registered/provided by a fund manager or DIMS Licensee (per paragraph 2.1 and 3.1 of Appendix 15 of the Immigration Instructions).**

We expect that the fund manager or DIMS Licensee will be registered on the New Zealand Financial Services Providers Register. The fund manager of a Managed Investment Scheme must also be licensed under the Financial Markets Conduct Act 2013 if required by that Act to hold a licence. By definition, a DIMS Licensee must also hold a licence under the Financial Markets Conduct Act 2013 unless it is exempt from licensing (per section s389(3) of the Financial Markets Conducts Act 2013).

Guidance Notes to the Criteria for Managed Funds



3. General comments

- a) A completed application form will be used by NZTE to consider whether the Managed Fund is an acceptable investment for the purposes of the AIP visa. An independent Advisory Panel may be appointed by NZTE to assess applications and make recommendations to NZTE as to whether the Managed Fund is an acceptable investment.
- b) Acceptable Managed Funds will be added to an “Acceptable Managed Fund List” maintained and published by NZTE. The inclusion of a Managed Fund on the Acceptable Managed Fund List will be evidence to Immigration New Zealand (“INZ”) that the Managed Fund is an acceptable investment. Noting that INZ assesses the actual investment made by an AIP investor to determine if they are compliant with their AIP visa investment conditions.
- c) In order to remain on the Acceptable Managed Fund List (should you be assessed as an acceptable investment) you must complete NZTE’s annual re-certification and adhere to the disclosure requirements and agree to do so as and when required by NZTE. Failure to do so could result in you being removed from the Acceptable Managed Fund List. These are available on [NZTE’s website](#).

Guidance Notes to the Criteria for Managed Funds



4. How to submit your application

- a) An application can be submitted by anyone who has the authority to do so on behalf of the Managed Fund. In your application, you will have to declare, among other things, that you have such authority and that the information provided in the application is true and correct to the best of your knowledge.
- b) Please fill in the PDF application form and submit it via email to AIPacceptableinvestments@nzte.govt.nz. Applicants are welcome to attach supplementary information to the email, such as investor presentations and other supporting documents, however these must be in addition to the completed application form.
- c) There is an application fee of \$1,500 NZD (GST inclusive) per application. Once you've submitted your application, NZTE will provide you with an invoice for this charge via email. This is a partial cost-recovery whereby the fee charged goes towards the administrative costs of assessment (including the independent Advisory Panel).
- d) **Timeframes:**
 - i. NZTE will acknowledge the receipt of your application and will confirm when it is complete and ready for assessment. You will receive an email to confirm when your application will be assessed by the Advisory Panel.
 - ii. The application submission cut-off dates are published on the NZTE website and updated from time to time.

Contact details:

Email: AIPacceptableinvestments@nzte.govt.nz

Links:

<https://www.nzte.govt.nz/page/acceptable-investments>

www.investnewzealand.nz