

## Detailed criteria for managed funds and direct investments

As noted in Appendix 15 of Active Investor Plus visa Immigration Instructions.

Correct as at Sunday, 18 September 2022.

- a. NZTE maintains a list of managed funds in accordance with the criteria set out below.
- b. NZTE will determine if an investment into a New Zealand resident entity is a direct investment in accordance with the criteria set out below.
- c. A business immigration specialist should rely on:
  - i. the list of managed funds maintained by NZTE as evidence of whether or not the managed fund is an acceptable investment under managed funds (see BN7.10.10); and
  - ii. a letter from NZTE as evidence of an acceptable direct investment (see BN7.10.15), for either:
    - o investment in an Investee Entity; or
    - o investment in acceptable listed equities as a Wholesale Investor is an acceptable investment under direct investment (see [BN7.10.20](#)).

### Definitions

1. Unless the context requires otherwise:

*Debt Security* has the meaning given to that term in the FMCA.

*Discretionary Investment Management Service (a DIMS)* has the meaning given to that term in the FMCA.

*DIMS licensee* has the meaning given to that term in the FMCA.

*Equity Security* means:

- a. A share in a company; or
- b. an equivalent interest in a body corporate, but

does not include a Debt Security.

*Financial Product* has the meaning given to that term in the FMCA.

*FMCA* means the Financial Markets Conduct Act 2013.

*Investment authority* has the meaning given to that term in the FMCA.

*Investee Entity* means a body corporate that:

- a. is a New Zealand Resident Entity; and
- b. is not listed on any securities exchange or stock exchange.

*Managed Investment Scheme* has the meaning given to that term in the FMCA.

*Managed Investment Product* has the meaning given to that term in the FMCA.

*Net Committed Capital* means the total funds committed to the Managed Investment Scheme or DIMS, minus the anticipated fees, obligations, expenses and liabilities to be incurred by the relevant Managed Investment Scheme or DIMS licensee.

*New Zealand Connection* has the meaning given to that term in the Policy Statement on the Venture Capital Fund Act 2019, published by the Ministry of Business, Innovation & Employment and the Treasury and dated December 2019.

*New Zealand Resident Entity* has the meaning given to that term in BN7.10.20 of the Immigration New Zealand Instructions for the Active Investor Plus visa.

*Objective* means the objective of the Active Investor Plus visa as set out in BN1 of the Immigration New Zealand Instructions for the Active Investor Plus visa.

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

- a. that clearly contributes to the Government's economic strategy (by being high growth potential firms or contributing to positive social and economic impacts);
- b. is into legitimate Investee Entities or managed funds and proper verification is conducted to ensure this; and
- c. does not prejudice New Zealand's reputation as a responsible member of the world community.

*Provider of a discretionary investment management service* has the meaning given to it in the FMCA.

*Wholesale Investor* has the meaning given to it in the FMCA.

## Managed funds

### Criteria for acceptable managed funds

- 2 A Managed Investment Scheme is an acceptable managed fund if NZTE is of the view that:
  - 2.1 it is managed by a fund manager that is licensed by the Financial Markets Authority and is a New Zealand Resident Entity;
  - 2.2 it will hold funds on the principal applicant's behalf in New Zealand and in New Zealand dollars;
  - 2.3 it does not invest in Financial Products that are quoted on any securities exchange or stock exchange;
  - 2.4 it invests wholly or substantially in entities with a New Zealand Connection. For the purposes of this provision, "substantially invested in entities with a New Zealand Connection" means where a minimum of 70% of the Net Committed Capital made available to the Managed Investment Scheme is allocated for investment in entities with a New Zealand Connection; and
  - 2.5 it is otherwise acceptable for the purposes of the Active Investor Plus visa.

### Criteria for acceptable discretionary investment management service

- 3 A Discretionary Investment Management Service is an acceptable Discretionary Investment Management Service if NZTE is of the view that:
  - 3.1 that service is provided by a DIMS Licensee who is a New Zealand Resident Entity;
  - 3.2 funds will be held on the principal applicant's behalf in New Zealand and in New Zealand dollars;
  - 3.3 the investment authority does not permit investment in Financial Products that are quoted on any securities exchange or stock exchange;
  - 3.4 the investment authority requires investment wholly or substantially in entities with a New Zealand Connection. For the purposes of this provision "substantially invested in entities with a New Zealand Connection" means where a minimum of 70% of the Net Committed Capital made available to the DIMS Licensee is allocated for investment in entities with a New Zealand Connection; and
  - 3.5 it is otherwise acceptable for the purposes of the Active Investor Plus visa.

### Managed Funds and DIMS List

- 4 NZTE will from time to time publish a list of acceptable Managed Funds and DIMS.

### Advisory Panel

- 5 NZTE may appoint an Advisory Panel to make recommendations to NZTE as to whether a Managed Investment Scheme or DIMS is acceptable.

- 6 If an Advisory Panel is to be appointed: 6.1 NZTE will first appoint a third party nominator or nominations committee;
  - 6.2 the third party nominator or nominations committee will nominate candidates to NZTE for appointment as members of the Advisory Panel; and
  - 6.3 NZTE will appoint the members of the Advisory Panel.
- 7 The members of the Advisory Panel (if any) will be independent of NZTE and will be chosen for their experience, training and expertise in the management of financial investments, as well as their mix of complementary skills.
- 8 NZTE will prepare Terms of Reference for the Advisory Panel.

#### Discretion

- 9 In exercising its discretion, NZTE and the Advisory Panel will have regard to the Objective and the Principles.

## Direct investments

### Criteria for acceptable direct investments

- 10 An investment in listed equities that is considered an acceptable investment under BN7.10.1(a) of the Immigration New Zealand Instructions for the Active Investor Plus visa is an acceptable direct investment if:
- 10.1 The principal applicant is a Wholesale Investor in respect of the investment; and
  - 10.2 NZTE pre-approves the investment.
- 11 An Investee Entity is an acceptable direct investment if NZTE is of the view that:
- 11.1 it has previously received, or will receive, capital from an acceptable managed fund;
  - 11.2 it is listed on the NZTE Live Deals platform (as updated by NZTE from time to time); or
  - 11.3 it is otherwise acceptable for the purposes of the Active Investor Plus visa.
- 12 In exercising its discretion under paragraphs 10.2 and 11.3, NZTE may have regard to:
- 12.1 whether the capital from the direct investment is being used to support the growth of the Investee Entity's business, to create new jobs or save existing jobs or otherwise deliver additional economic or other benefits to New Zealand (as reasonably determined by NZTE);
  - 12.2 whether the entity in which the principal applicant is a Wholesale Investor or the Investee Entity (as applicable) is compliant with NZTE's internal know-your-customer (KYC) process;
  - 12.3 whether the entity in which the principal applicant is a Wholesale Investor or the Investee Entity (as applicable) is already operating and trading;
  - 12.4 if the investment is subject to Overseas Investment Office or Ministerial approval pursuant to the Overseas Investment Act 2005, whether such approval has been provided;
  - 12.5 where:
    - (a) the investment by the principal applicant as a Wholesale Investor is into an entity; or
    - (b) the investment is into an Investee Entity,
  - 12.6 any other matter that NZTE considers relevant, having regard to the Objective and Principles.
- 13 As above at paragraph 12.5, where the:
- 13.1 the investment by the principal applicant as a Wholesale Investor is into an entity; or

13.2 investment is into an Investee Entity,

that is a “start-up” entity or is undertaking or investing in a “greenfield project”, in exercising its discretion under paragraph 11.3, NZTE may also have regard to:

13.3 if the entity or Investee Entity (as applicable) or the underlying business of the entity or Investee Entity (as applicable) aligns with the NZTE investment sectors of focus; or

13.4 whether satisfactory evidence of market validation, feasibility, or other reasonable diligence in relation to the entity or Investee Entity (as applicable) is provided to NZTE.

#### Advisory Panel

14 NZTE may appoint an Advisory Panel to make recommendations to NZTE as to whether a direct investment is an acceptable investment.

15 If an Advisory Panel is to be appointed:

15.1 NZTE will first appoint a third party nominator or nominations committee;

15.2 the third party nominator or nominations committee will nominate candidates to NZTE for appointment as members of the Advisory Panel; and

15.3 NZTE will appoint the members of the Advisory Panel.

16 The members of the Advisory Panel (if any) will be independent of NZTE and will be chosen for their experience, training and expertise in the management of financial investments, as well as their mix of complementary skills.

17 NZTE will prepare Terms of Reference for the Advisory Panel.

#### Discretion

18 In exercising its discretion, NZTE and any advisory panel will have regard to the Objective and the Principles