

**Guideline on Certification of Funds**  
**Issued by the Monetary Authority**  
**under Schedule 16D to the Inland Revenue Ordinance (Cap. 112)**

**1. Introduction**

- 1.1. The Inland Revenue (Amendment) (Tax Concessions for Carried Interest) Ordinance 2021 came into effect on 7 May 2021. It amends the Inland Revenue Ordinance (“IRO”) to give profits tax and salaries tax concessions to Qualifying Persons and Qualifying Employees in relation to Eligible Carried Interest received by, or accrued to, them on or after 1 April 2020 from their provision of Investment Management Services for certain funds and entities.
- 1.2. As defined in Schedule 16D to the IRO, a Certified Investment Fund means a fund within the meaning of section 20AM of the IRO that is certified by the Monetary Authority (“MA”) to be in compliance with the criteria for certification published by the MA (“Criteria for Certification”). In this connection, the MA will assess whether a fund has complied with the Criteria for Certification and will certify a fund if the Criteria for Certification and other requirements set out in this Guideline have been satisfied. The Inland Revenue Department (“IRD”) will then assess whether the fund as certified by the MA is within the meaning of section 20AM of the IRO, together with other conditions under the IRO, when claims for tax concessions for carried interest are made by the relevant Qualifying Persons and Qualifying Employees.<sup>1</sup> This Guideline sets out the Criteria for Certification and the manner in which the MA will interpret the Criteria for Certification and other matters in relation to the MA’s certification of funds for the purposes of Schedule 16D to the IRO (“Certification”).
- 1.3. The fact that a fund is certified by the MA to be in compliance with the Criteria for Certification does not mean that the fund is a Certified Investment Fund or that the relevant Qualifying Persons and / or Qualifying Employees are entitled to tax concessions under the IRO. The IRD administers the IRO and needs to be satisfied that all applicable conditions for tax concessions for carried interest under the IRO have been met so as to determine a Qualifying Person’s and / or a Qualifying Employee’s eligibility for tax concessions under Schedule 16D to the IRO. Apart from the MA’s Certification, the IRD will also take into account all relevant provisions under the IRO and may request a taxpayer to supply further information and documents (including those which have been submitted to the MA) in processing the taxpayer’s claim for tax concessions.
- 1.4. Unless otherwise defined in this Guideline, capitalised terms used in this Guideline have the same meanings given to them in the IRO. Where the meaning of a defined term in Schedule 16D to the IRO relates to a Certified Investment Fund, such defined term as used in this Guideline relates to a fund seeking to be certified by the MA where the context so requires.

---

<sup>1</sup> For the avoidance of doubt, the Certification issued by the MA does not certify that the fund concerned is within the meaning of section 20AM of the IRO, which is to be determined by the IRD in processing claims for tax concessions in respect of carried interest made by the Qualifying Persons and Qualifying Employees. A fund is encouraged to consult professionals on tax matters concerning the fund.

## 2. Criteria for Certification<sup>2</sup>

2.1. In order for a fund to be certified by the MA, the following criteria must be met:

- (a) the fund has invested in the following classes of assets during the Applicable Period:
  - (i) shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, a private company (as specified in Schedule 16C to the IRO); or
  - (ii) shares of, or comparable interests in, a special purpose entity or an interposed special purpose entity (as defined by section 20AO(4) of the IRO) that holds (whether directly or indirectly) and administers:
    - (A) one or more investee private companies (as defined by section 20AO(4) of the IRO); and
    - (B) no other assets of a class specified in Schedule 16C to the IRO; or
  - (iii) shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, an investee private company (as defined by section 20AO(4) of the IRO); and
- (b) the Qualifying Person has satisfied the following “minimum activity requirements” throughout the Applicable Period:
  - (i) the average number of full-time employees in Hong Kong who carry out the Investment Management Services<sup>3</sup> concerned and have the qualifications necessary for doing so during the Basis Period for each Year of Assessment falling within the Applicable Period is 2 or more; and
  - (ii) the total amount of operating expenditure incurred in Hong Kong for the provision of the Investment Management Services concerned during the Basis Period for each Year of Assessment falling within the Applicable Period is HK\$2 million or more.

2.2. For the avoidance of doubt, the thresholds of the average number of qualified full-time employees and the total amount of operating expenditure as set out under paragraph 2.1(b) of this Guideline only serve as the minimum requirements that a Qualifying Person must satisfy in order for the Investment Management Services

---

<sup>2</sup> For the avoidance of doubt, when assessing whether a fund meets the Criteria for Certification under this Guideline, the MA will not confirm whether the Eligible Carried Interest, Qualifying Person and Investment Management Services as declared in the application for Certification have satisfied the meaning of those terms as set out in the IRO, which will remain to be determined by the IRD.

<sup>3</sup> Investment Management Services include:

- (a) seeking funds for the fund from external investors or potential external investors;
- (b) researching and advising on potential investments to be made for the fund;
- (c) acquiring, managing or disposing of property or investments for the fund; and
- (d) acting for the fund with a view to assisting an entity in which the fund has made an investment to raise funds.

provided by that Qualifying Person to be considered as having been carried out in Hong Kong. A Qualifying Person will not be entitled to tax concessions if any of such thresholds is not met. However, it does not follow that a Qualifying Person will automatically be entitled to tax concessions if the thresholds are met. To be eligible for tax concessions, a Qualifying Person has to demonstrate that the “adequacy test” under section 5(3) of Schedule 16D to the IRO has been satisfied when the Qualifying Person claims profits tax concession for Eligible Carried Interest in a particular Year of Assessment. In applying the “adequacy test”, the IRD will consider the totality of facts of each case and, where necessary, request the Qualifying Person to supply further information and documents.

### **3. Application for Certification**

- 3.1. A fund is required to apply for Certification from the MA for each relevant Year of Assessment if the Qualifying Person wishes to claim tax concessions for the Eligible Carried Interest received, or accrued, during such Year of Assessment.
- 3.2. To apply for Certification, a fund, as the applicant, has to submit to the MA a completed “Certification Application Form” and the required supporting documents, including an auditor’s report. Details that are required to be set out in an auditor’s report in support of a Certification application will be announced separately<sup>4</sup>.
- 3.3. The application for Certification may be submitted after Eligible Carried Interest has been received by, or accrued to, a Qualifying Person for a particular Year of Assessment. The application should be made on or before the applicable deadline which is determined based on the Qualifying Person’s accounting year-end date as follows:

Accounting year-end date falling within:	Deadline <sup>5</sup> :
1 April – 30 November	2 May in the following year
1 December – 31 December	15 August in the following year
1 January – 31 March	15 November in the same year

- 3.4. Where a fund has satisfied the requirements under paragraphs 2.1, 3.2 and 3.3 of this Guideline, the MA will endeavour to, within 2 months after receiving all the required information and documents, issue the Certification to the fund based on the information and documents received from the fund and inform the IRD of the issuance of the Certification or, in the case of an unsuccessful application, notify the fund and the IRD of the result.

#### Revocation

- 3.5. A fund has a duty to inform the MA within 90 calendar days of any change to the information or documents provided in connection with the Certification application. In the event that the MA considers that the fund and / or the Qualifying Person

<sup>4</sup> The Hong Kong Monetary Authority is in consultation with the Hong Kong Institute of Certified Public Accountants regarding the detailed requirements of the auditor’s report. Separate announcement will be made when the details are finalised.

<sup>5</sup> In the event the prescribed deadline is a Saturday, Sunday or a public holiday, such deadline will automatically be extended to the next business day.

fail(s) to meet the Criteria for Certification as a result of new information that has come to the MA's knowledge, the MA reserves the right to revoke the Certification of the fund. The MA will inform the fund of the potential revocation of its Certification and consider any submission made to him. The MA will notify the fund and the IRD of the revocation.

#### **4. Pre-application Screening (Optional)**

- 4.1. There may be cases where a fund is expected to be able to meet the Criteria for Certification during the Applicable Period but no Eligible Carried Interest has arisen yet. In such cases, the fund may apply for pre-application screening before any Eligible Carried Interest has been received by, or accrued to, a Qualifying Person. The pre-application screening is intended to provide, based on the information provided in connection with the application, an indication of whether a fund would likely meet the Criteria for Certification during the actual Certification process. It should be noted that the pre-application screening is not a certification and is optional. The fund will need to apply for Certification when Eligible Carried Interest has been received by, or accrued to, the Qualifying Person. The screening will not affect the outcome, and will not form any part, of the Certification application.
- 4.2. To apply for pre-application screening, a fund, as the applicant, should submit to the MA a completed "Pre-application Screening Form" under which the fund and the Qualifying Person are required to demonstrate that they intend to meet the Criteria for Certification under paragraph 2.1 throughout the Applicable Period, and other required supporting documents.
- 4.3. Upon receipt of the completed Pre-application Screening Form and the required supporting documents, the MA will endeavour to, within 2 months after receiving all the required information and documents, issue a letter of acknowledgement to the fund if the MA considers that the fund would likely meet the Criteria for Certification during the actual Certification process. If the MA considers that the fund would unlikely meet the Criteria for Certification during the actual Certification process, the MA will notify the fund of the result.

#### Revocation

- 4.4. A fund has a duty to inform the MA within 90 calendar days of any change to the information provided in connection with the application for pre-application screening. The MA will also request the fund and the Qualifying Person (i) to make annual declarations that they have complied with the Criteria for Certification up to the date of the declaration and that it remains their intention to meet the Criteria for Certification for the rest of the Applicable Period; and (ii) where necessary, to provide supplementary information and documents as the MA deems fit. If, in the opinion of the MA, a fund that has received a letter of acknowledgement from the MA and / or the Qualifying Person is / are no longer expected to meet the Criteria for Certification throughout the Applicable Period, or if the fund fails to provide the requested annual declarations, information or documents within 90 calendar days of the MA's request, the MA reserves the right to revoke the letter of acknowledgement to the fund. The MA will inform the fund of the potential

revocation of the letter of acknowledgement and consider any submission made to him. The MA will notify the fund of the revocation.

## **5. Sharing of Information and Documents with IRD**

- 5.1. The IRD administers the tax concessions regime for carried interest under the IRO. To facilitate the IRD in processing any claim for tax concessions, the MA may provide any information and documents submitted by the funds or their authorised representatives, as well as any information collected by the MA, to the IRD after the funds have applied to the MA for Certification.

## **6. Personal Data Received**

- 6.1. All personal data provided by a fund will be used by the MA for the purposes of processing any application for Certification or pre-application screening, revocation of any Certification or letter of acknowledgement, as well as any other purposes related to tax concessions for carried interest under the IRO.
- 6.2. By submitting an application for Certification or pre-application screening to the MA, the fund and the Qualifying Person are regarded to have agreed to, and to have obtained from each individual whose personal data is provided in connection with the application his / her consent for the use, disclosure and transfer by the MA of the personal data for the purposes set out under paragraph 6.1 above (including any disclosure or transfer to the IRD or as permitted or required by law).
- 6.3. An individual to whom personal data belongs has the right of access to and correction of his / her personal data. Enquiries concerning the personal data collected by the MA or the MA's policies and practices in relation to personal data, or requests for access to or correction of personal data, should be addressed to the data privacy officer at [hkma.certification.ci@hkma.gov.hk](mailto:hkma.certification.ci@hkma.gov.hk).

## **7. Transitional Arrangements**

- 7.1. A Qualifying Person or a Qualifying Employee intending to claim tax concessions for Eligible Carried Interest that was received by, or accrued to, the Qualifying Person or the Qualifying Employee in the period beginning on 1 April 2020 and ending on 31 March 2021 is required to, via the fund to which the Qualifying Person or the Qualifying Employee provides Investment Management Services in Hong Kong, submit a Certification Application Form to the MA by 31 December 2021.
- 7.2. Prior to the announcement of the details on the auditor's report, a fund may submit a Certification Application Form (including pursuant to paragraph 7.1 above) to the MA in the absence of an auditor's report. In order for the MA to process the application, the auditor's report must be submitted to the MA within 180 calendar days after the MA has issued the guideline in relation to the auditor's report. The MA is not obliged to process any application if a fund fails to submit the auditor's report within the prescribed time.

## **8. Administrative Matters**

- 8.1. Funds should send their requests for Certification Application Form or Pre-application Screening Form to [hkma.certification.ci@hkma.gov.hk](mailto:hkma.certification.ci@hkma.gov.hk). All applications and submissions should be made in electronic form to the MA at [hkma.certification.ci@hkma.gov.hk](mailto:hkma.certification.ci@hkma.gov.hk). A non-resident fund will be required to appoint a local authorised representative (which may be an individual or an entity) for submitting the application to and communications with the MA.
- 8.2. The MA may request such further information and documents as the MA deems fit from a fund to assist the MA in reviewing an application. Failure to provide the requested information and documents, or provision of inaccurate or incomplete information, may result in an application being deferred or rejected. The MA is not obliged to process any incomplete / late application or provide any reason for any unsuccessful application.
- 8.3. The MA may amend this Guideline and issue further guidance in relation to the matters in this Guideline as and when necessary.
- 8.4. Questions regarding this Guideline should be emailed to [hkma.certification.ci@hkma.gov.hk](mailto:hkma.certification.ci@hkma.gov.hk).

16 July 2021