

Controlled Entities and Controlling Individuals

In a situation where:

- A Company or Trust is the applicant for a Corporate Account (A Controlled Entity applicant) or;
- An individual is the applicant and wishes to use the assets or gross income of the company to qualify for Wholesale status (A Controlling Individual).

control of the entity needs to be determined before the assets or gross income of the entity can be considered for the Individual Wealth Test associated with Wholesale Client status in Australia

What is Control?

As a rule, a person is taken to “control” a company or trust if the person has the capacity to determine the outcome of decisions about the financial and operating policies of the company or trust as per section [50AA of the Corporations Act 2001](#). In determining whether a person has such capacity, the following points are considered:

- a) The practical influence the person can exert, rather than the rights the person can enforce; and
- b) Any practice or pattern of behaviour regarding the financial and operating policies of the company or trust.

Example of when an Entity is controlled by a person

For example, companies or trusts **wholly owned by a person** will automatically be considered controlled by that person.

Example of when an Entity is not controlled by a person

Consider a person who is a wholesale client under the Individual Wealth test. However, the applicant is that person’s family trust. In this case, the family trust will not be considered a wholesale client if the wholesale client does not “control” the family trust.

We must assess all the persons involved within an Entity

If a person does not solely control a company or trust because capacity to make the decisions is jointly shared with another person (e.g., spouse or business partner) or if the person has the capacity to make decisions under a legal obligation only, then compliance with the wholesale client tests must be considered for each controlling person or investing entity separately. This means we need to find out who are all the controllers of a controlled entity before granting Wholesale status.

What if you are unsure?

Feel free to submit your Wholesale Certification and our compliance team will be happy to assess your application and confirm your status.