



Our Ref: 202100807

21 February 2022

**BY EMAIL**

Attention: Haydn Wong

Overseas Investment Office  
Radio New Zealand House  
155 The Terrace  
PO Box 5501  
Wellington 6145  
New Zealand  
+64 4 460 0110  
www.linz.govt.nz

**MERCURY MEDICAL HOLDINGS LIMITED - CONFIRMATION OF ROP/IWC & REQUEST FOR DRAFT STATUTORY DECLARATIONS**

1. We refer to the application received 23 December 2021.

Relevant overseas person and individuals with control

2. Please note that for the purposes of this application, we consider the:

(a) **'relevant overseas person'** to be (collectively):

Relevant overseas person	Role
MCF2 GP Limited ( <b>GP1</b> )	General Partner of fund owning Applicant
MCF2A General Partner Limited ( <b>GP2</b> )	General Partner of fund owning Applicant
Mercury Capital Investments Pty Limited ( <b>Manager</b> )	Manager of fund owning Applicant
Mercury Medical Holdings Limited	Applicant

(b) **'individuals with control of the relevant overseas person'** to be:

Individuals with control	Role
Clark Elliot Perkins	Director of Applicant, GP1, GP2 and Manager CEO of Mercury Capital and 100% owner of GP1 and GP2
Craig Leonard Heatley	Director of Applicant, GP1, GP2 and Manager
Geoffrey Thomas Ricketts	Director of Applicant, GP1, GP2 and Manager
Thomas Wilton Sturgess	Director of Applicant, GP1, GP2 and Manager

*Statutory declarations or waiver request and signed statements*

3. Please email us drafts of **either**:
  - (a) A draft statutory declaration in support of the application. This draft declaration will need to refer to the final version of the Application and any other correspondence (if relevant) provided in support of the application for consent (leave dates blank for now); and
  - (b) draft statutory declaration(s) addressing the Investor Test; **or**
  - (c) A request for a waiver of the requirement for statutory declarations and draft statements should the waiver request be granted.

*New investor test declaration changes*

4. Please note when filing out your new investor test draft statutory declaration(s) (see Appendix 1b):
  - (a) We now require declaration(s) from individuals and relevant overseas persons;<sup>1</sup> and
  - (b) We do not require declaration(s) from individuals with control/relevant overseas persons who are not overseas persons (i.e., New Zealand citizens, ordinarily resident).<sup>2</sup> Please note that if an IWC is claiming to be ordinarily resident you will need to provide evidence in accordance with [our website](#).
5. We reiterate that it is especially important you send us draft declarations considering the recent changes.

*Option 1: Statutory declarations*

6. If the Applicant chooses to provide statutory declarations, the Applicant must ensure they comply with the form of statutory declarations **attached** to this letter as **Appendix 1a & b**. For guidance on how to administer remote statutory declarations under the [Epidemic Preparedness \(Oaths and Declarations Act 1957\) Immediate Modification Order 2020](#), please refer to [this Ministry of Justice guidance](#).

*Option 2: Waiver request and signed statements*

7. If the Applicant chooses to request a waiver, the request must be made in writing and must state the reasons the waiver is required. If a waiver is granted, the Applicant will be asked to provide signed statements that comply with the form of the statements **attached** to this letter as **Appendix 2 a & b**. Please provide draft statements with your waiver request.
8. It is important to note that we are still assessing the application and **this letter does not grant consent to the Investment**.

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<sup>1</sup> Section 18A(2)(a) and (b) Overseas Investment Act 2005. You may combine these together into a group investor test declaration.

<sup>2</sup> Section 18A (2) Overseas Investment Act 2005 excludes persons who are not overseas persons from the requirement to meet the investor test.

9. Please provide the information requested above by **midday on 28 February 2022**.  
Please contact me if you have any queries or wish to discuss.

Yours sincerely



Craig Mundy-Smith  
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Overseas Investment Office  
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Email: cmsmith@linz.govt.nz

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## Appendix 1a – Form of “true and correct” statutory declaration

- This statutory declaration must be made by each applicant (refer to sections [23\(2\)](#) of the Overseas Investment Act 2005). If the applicant is not an individual, please discuss with us who will be making the declaration before completing it.
- The list of correspondence in paragraph 1 must include the final signed application letter and any correspondence from you to us containing information that has not been incorporated into the final signed application letter. You do not need to refer to our correspondence to you.
- The person witnessing the declaration must clearly print their name and why they are qualified to witness a statutory declaration (refer to sections [9\(1\)](#), [11\(1\)](#) and [11\(2\)](#) of the Oaths and Declarations Act 1957).

I, [Name], of [place of abode and occupation], solemnly and sincerely declare that:

1. I have read the following:
  - (a) The Application submitted via webform on XXX including all appendices;
  - (b) The further information forms submitted on XX, XX and XX by webform including all appendices;
  - (c) The final signed version of the Investment Plan dated [date] including all appendices;
  - (d) [if relevant: Email/Letter from X to X dated X (X.XX pm) including all attachments;]which were submitted to the Overseas Investment Office in support of the application made by [Applicant] to acquire [Assets].
2. All of the information contained in the correspondence and the attachments was true and correct at the time it was submitted. Any information that has changed, or is no longer true and correct, has been amended in subsequent correspondence or attachments.
3. I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at <LOCATION> )  
this <DAY> day of <MONTH> )  
<YEAR> ) —

Signature

Before me —

Witness signature

—

Witness name (print)

—

Witness qualification (print)

A person authorised to take statutory declarations  
by the Oaths and Declarations Act 1957

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## Appendix 1b – Form of Investor Test” statutory declaration

- We will confirm whether one statutory declaration can be made on behalf of all the individuals or entities, or whether each individual needs to make a separate declaration.
- If any of the investor test factors at section 18A(4) are relevant, please provide a clear explanation of the offence, contravention, or other matter.
- If you are providing a statutory declaration, the person witnessing the declaration must clearly print their name and why they are qualified to witness a statutory declaration (refer to sections **9(1)**, **11(1)** and **11(2)** of the Oaths and Declarations Act 1957).

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[DELETE THE PARAGRAPHS THAT DO NOT APPLY AND THE GUIDANCE ABOVE]

I, [Name], of [place of abode and occupation], solemnly and sincerely [affirm]/[declare] that:

*Choose one of the three sections as appropriate*

1. None of the factors set out at section 18A(4) of the Overseas Investment Act 2005 regarding character and capability are relevant to me.
2. I am not unsuitable to own or control any sensitive New Zealand assets.

**Or**

3. None of the factors set out at section 18A(4) of the Overseas Investment Act 2005 are relevant to [name of relevant overseas person].]
4. [Name of relevant overseas person] is not unsuitable to own or control any sensitive New Zealand assets.

**Or**

5. The factor[s] set out at section [18A(4)(a)(i), 18A(4)(a)(ii) ... ] are relevant to [me/name of relevant overseas person]:
  - (a) [brief description of each offence, contravention, or other matter]
6. As per the submissions provided to the Overseas Investment Office on [date], [I/we] consider that [I am/name of relevant overseas person is] not unsuitable to own or control New Zealand assets.
7. The information that was provided to the Overseas Investment Office [as Appendix X to the application for consent / by letter on [date]] for the purposes of determining my suitability to own or control sensitive New Zealand assets is true and correct.
8. I am a [director/controller/officer] of [entity] and have full authority to make this statement on its behalf.
9. I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at <LOCATION> )  
this <DAY> day of <MONTH> )  
<YEAR> ) —

Signature

Before me —

Witness signature

—

Witness name (print)

—

Witness qualification (print)

A person authorised to take statutory declarations  
by the Oaths and Declarations Act 1957

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## Appendix 2a – Form of “true and correct” statement

This statement must be made by each applicant. If the applicant is not an individual, please discuss with us who will be making the statement before completing it. The list of correspondence in paragraph 1 must include the final signed application letter and any correspondence from you to us containing information that has not been incorporated into the final signed application letter. You do not need to refer to our correspondence to you.

[DELETE THE GUIDANCE ABOVE]

I, [Name], of [place of abode and occupation], state that:

1. I have read the following:
  - a. The final signed version of the Application letter dated [date] including all appendices;
  - b. The final signed version of the Investment Plan dated [date] including all appendices;
  - c. [if relevant: Email/Letter from X to X dated X (X.XX pm) including all attachments;]  
which were submitted to the Overseas Investment Office in support of the application made by [Applicant] to acquire [Assets].
2. All of the information contained in the correspondence and the attachments was true and correct at the time it was submitted. Any information that has changed, or is no longer true and correct, has been amended in subsequent correspondence or attachments.

Signed at [location] on this [day] of [month] [year]

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[Name of signatory]

## Appendix 2b –Form of “Investor Test” statement

- We will advise whether one affirmation/statement can be made on behalf of all the individuals or entities, or whether each individual needs to make a separate affirmation/declaration.
- If any of the investor test factors at section 18A(4) are relevant, please provide a clear explanation of the offence, contravention, or other matter.
- If you are providing the statement as a statutory declaration, the person witnessing the declaration must clearly print their name and why they are qualified to witness a statutory declaration (refer to sections [9\(1\)](#), [11\(1\)](#) and [11\(2\)](#) of the Oaths and Declarations Act 1957).

[DELETE THE PARAGRAPHS THAT DO NOT APPLY AND THE GUIDANCE ABOVE]

I, [Name], of [place of abode and occupation], solemnly and sincerely [affirm]/[declare] that:

*Choose one of the three highlighted sections as appropriate*

10. None of the factors set out at section 18A(4) of the Overseas Investment Act 2005 regarding character and capability are relevant to me.
11. I am not unsuitable to own or control any sensitive New Zealand assets.

**Or**

12. None of the factors set out at section 18A(4) of the Overseas Investment Act 2005 are relevant to [name of relevant overseas person]..]
13. [Name of relevant overseas person] is not unsuitable to own or control any sensitive New Zealand assets.

**Or**

14. The factor[s] set out at section [18A(4)(a)(i), 18A(4)(a)(ii) ... ] are relevant to [me/name of relevant overseas person]:
  - (a) [brief description of each offence, contravention, or other matter]
15. As per the submissions provided to the Overseas Investment Office on [date], [I/we] consider that [I am/name of relevant overseas person is] not unsuitable to own or control New Zealand assets.
16. The information that was provided to the Overseas Investment Office [as Appendix X to the application for consent / by letter on [date]] for the purposes of determining my suitability to own or control sensitive New Zealand assets is true and correct.
17. I am a [director/controller/officer] of [entity] and have full authority to make this statement on its behalf.

Signed at [location] on this [day] of [month] [year]

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[Name of signatory]

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