

Overseas Investment Act review: summary of options

	Significant business assets		Sensitive land				Across categories			Other changes
	Scope	Hurdle	Scope	Hurdle	Special land offer	Change by regulation	Strategic assets	Sovereign Wealth Funds	Assets already in overseas ownership	
Status Quo	<ul style="list-style-type: none"> Existing business: ≥25% and >\$100m (or target's assets are >\$100m) New business: >\$100m Business property: >\$100m 	<ul style="list-style-type: none"> Good investor test: <ul style="list-style-type: none"> good character business experience financial commitment 	<ul style="list-style-type: none"> Non-urban land > 5ha Land including or adjoining: parks, reserves, heritage areas, foreshore, seabed,... Offshore islands 	<ul style="list-style-type: none"> Good investor test Benefit assessed against 27 factors (economic, environmental and social), 'substantial and identifiable' benefit required for non-urban land 	<ul style="list-style-type: none"> Foreshore, seabed, lakebed and riverbed must be offered to the Crown 	<ul style="list-style-type: none"> Factors used to assess benefit of sensitive land investments can be changed by regulation 	<ul style="list-style-type: none"> Ministers may consider whether the investment will assist NZ to maintain control of strategic infrastructure 	<ul style="list-style-type: none"> No additional screening for SWF investments 	<ul style="list-style-type: none"> Consent required to increase existing level of ownership Consent required to sell from one overseas person to another 	
Options	<p>Raise threshold to \$150m</p> <ul style="list-style-type: none"> 2% fewer applications <p>L L L M L</p>		<p>Increase non-urban land threshold to 10ha</p> <ul style="list-style-type: none"> 4% fewer applications <p>M L L M L</p>	<p>Simplified benefit test</p> <ul style="list-style-type: none"> Remove 'substantial and identifiable' qualifier Similar factors to status quo <p>M M L L L</p>	<p>Remove riverbed offer</p> <ul style="list-style-type: none"> Remove offer back for riverbed only [most complex]. Access issues addressed via benefit test <p>H M M L M</p>	<p>Require primary legislation to change factors</p> <p>L H M L L</p>	<p>No specific screening</p> <ul style="list-style-type: none"> Remove current factor and do not replace <p>L H M L M</p>	<p>Additional screening requirements</p> <ul style="list-style-type: none"> e.g. require fund to show compliance with IMF good governance principles <p>M L L M M</p>	<p>Remove screening if increasing ownership in an existing investment</p> <ul style="list-style-type: none"> 8% fewer applications <p>M L L M M</p>	<p>Create additional exemptions for:</p> <ul style="list-style-type: none"> PIEs and NZ linked investors <p>M M L L L</p>
	<p>Raise threshold to \$200m</p> <ul style="list-style-type: none"> 3% fewer applications <p>L L L M L</p>		<p>Remove screening for rural commercial/ industrial sites</p> <p>L L M M L</p>	<p>Targeted benefit test</p> <ul style="list-style-type: none"> Benefit assessed requiring protection for walking access; vegetation; wildlife; and heritage Economic benefits not assessed <p>M M M L L</p>	<p>Remove requirement to offer special land</p> <ul style="list-style-type: none"> Remove offer back entirely <p>H M M L M</p>	<p>Require consultation before changes</p> <p>L L M L M</p>	<p>Define strategic assets</p> <ul style="list-style-type: none"> e.g. particular firms or sectors <p>L M M L H</p>	<p>Lower threshold for SWFs</p> <ul style="list-style-type: none"> e.g. retain business threshold at \$100m <p>L L L M L</p>	<p>Remove screening if selling from one overseas person to another</p> <p>H L H M H</p>	<p>Minor drafting improvements</p> <ul style="list-style-type: none"> Clarify parts of the Act that are difficult to interpret
	<p>Remove screening for investments in firms with assets >\$100m</p> <ul style="list-style-type: none"> 2% fewer applications <p>L L L M H</p>		<p>Remove screening for land adjoining local parks (retain regional and national parks)</p> <ul style="list-style-type: none"> 7% fewer applications <p>M M L M L</p>	<p>Narrow benefit test</p> <ul style="list-style-type: none"> Investors to identify sensitive features and any obligations to protect them Ability to require protection for walking access <p>H H H L H</p>		<p>Exempt received applications from effect of changes</p> <p>L M M L M</p>	<p>Substantial harm test</p> <ul style="list-style-type: none"> Considers threats to public order, essential and security interests Includes assessment of economic threats <p>L M L L M</p>	<p>Key: impact charts</p> <p>L L L M H</p> <p>1st box: change in compliance costs 2nd box: impact on investor certainty 3rd box: impact on protections 4th box: FTA impacts 5th box: risks</p> <p>L= low M=medium H=high</p>	<p>Key: outline boxes</p> <p>Blue bordered boxes: proposed package</p>	<p>Administrative improvements</p> <ul style="list-style-type: none"> OIO to issue more guidance and training for lawyers
Tradeoffs/ Judgments	<ul style="list-style-type: none"> Economic benefits of smaller scope [Withheld - relating to trade agreements] What is a 'significant' investment? 		<ul style="list-style-type: none"> Investor compliance cost savings Sensitivity of sites no longer screened Irreversibility due to FTAs 	<ul style="list-style-type: none"> Ability to extract additional benefits from overseas investors 	<ul style="list-style-type: none"> Reduced complexity and processing time/cost Importance of Crown ownership in its own right 	<ul style="list-style-type: none"> Ministerial discretion against improved investor certainty 	<ul style="list-style-type: none"> Whether existing tests provide sufficient protection Ministerial discretion against improved investor certainty 	<ul style="list-style-type: none"> Concern about future risk Protection provided by current regime International response to higher barriers 	<ul style="list-style-type: none"> Compliance cost savings Concern about character and acumen of other overseas investors 	<ul style="list-style-type: none"> Extent to which higher thresholds reduce oversight Whether NZ linked investors are similar to NZ investors