THE TREASURY
Kaitohutohu Kaupapa Rawa

Regulatory Impact Statement: Review of the overseas investment screening regime

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by The Treasury. It provides an analysis of options:

i) to ensure that the overseas investment screening regime provides sufficient flexibility for Ministers to respond to public concerns about foreign investment; and

ii) to provide greater certainty to investors by setting out government policy on foreign investment.

Treasury has been asked to develop options that address these specific issues and that can be implemented by regulation rather than by amending the Overseas Investment Act. This limits policy options to those that add factors to the benefit test used to assess investments in sensitive land. A fuller analysis would assess wider range of changes including whether a screening regime is the most effective way of addressing concerns about overseas investment and whether the design of the regime is consistent with the Government's overall economic objectives. A fuller analysis that assessed a wider range of changes to the Act was undertaken in two earlier RISs which are intended to be publicly released.

Consultation on the options in this RIS has been limited to government agencies and the Technical Reference Group established to assist with the review.

The proposals have been assessed as to whether they are likely to have effects which may not align with the commitments in the Government Statement on Regulation as outlined below:

Do the proposals:

… *impose additional costs on business?* While the proposals are not intended to create additional costs for investors, it is possible that they will either have a limited effect on increasing certainty for investors or reduce certainty.

… *impair private property rights, market competition, or incentives on businesses to innovate and invest?* Some of the proposals aim to improve certainty for investors however it is possible that they will have a limited effect.

…*override fundamental common law principles?* The proposals are not expected impact on these principles.

Siân Roguski, Acting Manager, International

Signature: Date:

Executive Summary

This Regulatory Impact Statement outlines options to address the following problems:

a. **Increased Ministerial flexibility to consider a wider range of issues when assessing overseas investments in sensitive land.** Ministers consider that it is important that the overseas investment screening regime is able to address concerns that foreign investment, in some cases or sectors, may be detrimental to New Zealand's interests, and that the regime is able consider all relevant issues or concerns that may arise both now and in future. These include:

   i. concerns about the aggregation of farmland ownership by foreign investors, both by individual investors and foreign investors as a whole;
   ii. concerns that foreign investors will create vertically-integrated firms in the agricultural sector that control the market for agricultural products from production to consumers;
   iii. concerns that some government-controlled foreign investors may seek to control resources for non-economic reasons.

b. **Improving clarity and certainty for foreign investors.** Ministers want to improve certainty for investors by outlining the Government's policy on foreign investment, particularly as to whether there may be 'sensitive' sectors that are 'off-limits' or subject to special conditions.

The following options could be jointly or separately introduced to respond to the problems outlined in (a) above:

- Introduce an 'economic interests' factor to the benefit test used to assess investments in **sensitive land.**
- Introduce a 'mitigating factor' to the benefit test used to assess investments in **sensitive land**.

To improve clarity and certainty for investors, two options are assessed. These are either issuing a new Directive Letter to the Overseas Investment Office (OIO) or issuing a statement on foreign investment policy. These options would outline the Government's general attitude towards foreign investment in sensitive land, and provide advice to the OIO about which factors in the benefit test are likely to be more or less important for the assessment of particular investments.

The table on the following page summarises the options developed to address these problems and assesses them against the following four criteria:
- The extent to which the proposal improve certainty for investors.
- The extent to which the proposals will increase Ministerial flexibility.
- The extent to which the proposals are consistent with New Zealand's international obligations.
- The extent to which the proposals create risks, such as avoidance, or implementation difficulties.

Treasury's view is that the proposed changes to the screening regime are not necessary, largely because we do not consider that the concerns raised are specific to foreign investors. The proposed changes raise a number of risks but are not likely to have a large impact on investment flows into New Zealand.

	Increased investor certainty	Increased Ministerial flexibility	Degree of compatibility with international obligations	Risks
Options for maintaining public confidence and Ministerial flexibility				
Introduce an 'economic interest' factor	Low. Investors are likely to be unsure about precisely what are 'economic interests' and what is meant by 'adequate safeguarding'. It is likely to be hard for investors to show how their investment contributes to this factor.	High. The factor provides Ministers with the ability to consider a relatively wide range of issues depending on how they choose to interpret 'economic interests'. The ability to consider a wider range of issues may improve public confidence if the public can see that their concerns can be considered.	Medium. New Zealand has flexibility to alter the factors used to assess investments in sensitive land. However the changes may be perceived as restrictive measures by trading partners.	Medium. The influence of the factor on any one application is reduced because it cannot be used to accept or decline an investment in its own right. There is a risk of review by the Regulations Review Committee into the use of the regulation-making power. The factor may be viewed by foreign investors and trading partners as a restrictive change.
Introduce a 'mitigating factor'	Medium. The factor clearly sets out what an investor could do to mitigate concerns. However the factor creates uncertainty if it is not clear what type of investments the factor will be most relevant to.	High. The proposal creates additional flexibility for Ministers to consider whether concerns can be mitigated by increasing NZ oversight or involvement. Public confidence may be increased if investments have a greater degree of New Zealand control or oversight.	Medium. New Zealand has retained some flexibility to alter the factors used to assess investments in sensitive land in international agreements. *[[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*.	Medium. There is a risk that investors could avoid the factor by appointing proxies to act on their behalf. Foreign investors, trading partners and international bodies may view the inclusion of this factor as restrictive.
Revoke the 'strategic assets' factor	Medium. In isolation, removing the factor may improve certainty.	Low. In isolation, flexibility is reduced by removing this factor. However, the 'economic interests' factor provides a similar power that provides flexibility to address public concerns.	High. Revoking this factor is unlikely to affect international obligations or trading partner perceptions.	Low. The replacement 'economic interest' factor is designed to consider similar issues.
Options for improving certainty and clarity for investors				
Outline government policy through the Directive Letter	Medium. The statement would clarify the government's policy position on foreign investment. However the Directive Letter is limited to providing guidance and it will be hard to define precisely what economic interests are.	Medium. Setting out government policy enables Ministers to consider changes towards attitude towards foreign investment.	High. Setting out government policy does not impact on international obligations. However, any policy statement will need to be carefully designed and applied with reference to our obligations.	Low. There is a risk that the government could issue a new statement at short notice in response to a particular investment. However this risk is low because the statement is guidance only.

Introduction

1. New Zealand relies on overseas investment to provide local businesses with capital to expand, and to bring in new technology and skills from offshore. New Zealand is competing more than ever with a wide range of countries for overseas capital. It is therefore particularly important that our investment screening regime does not deter valuable investment that would help the New Zealand economy grow and recover more quickly from recession.

2. At the same time it is important to recognise that overseas investment in sensitive assets can raise community concerns, such as loss of ownership value and concerns about investors reducing public access and usage of land that has been traditionally provided. The screening regime can therefore be used to provide oversight of investments in sensitive assets to ensure that these concerns are adequately addressed.

3. The Overseas Investment Act is being reviewed as part of the Government's regulatory reform programme. Regulatory reform is a key part of the Government's agenda and the review programme aims to ensure that regulation does not inhibit businesses from innovating, investing, creating jobs and earning higher profits. The Terms of Reference for the review can be found at the following website: http://www.treasury.govt.nz/publications/informationreleases/overseasinvestment/review2009.

Status Quo: The operation of the Overseas Investment Act 2005

4. The Overseas Investment Act regulates investments by overseas persons in sensitive New Zealand assets. Broadly, an 'overseas person' is an individual who is not a New Zealand citizen or ordinarily resident, or is a business that is 25% or more owned or controlled by individuals who are overseas persons.

5. Three categories of sensitive assets are covered by the regime: significant business assets, sensitive land and fishing quota. Significant business investments by overseas investors of over $100 million are screened. Investors must show that they have business acumen and experience, financial commitment and good character (the 'investor test'). Overseas investments in land are screened if the land is considered sensitive under the Act. Examples include non-urban land exceeding five hectares ('non-urban land'), any foreshore and seabed, land on certain islands, and land held for conservation purposes. Investors must pass the investor test and must also demonstrate that the investment will benefit New Zealand, as assessed against a number of factors (the 'benefit test'). In the case of non-urban land, the benefit must be 'substantial and identifiable'.

Problem definition

6. This review has two parts. Part one focused on making administrative and minor regulatory changes to improve the efficiency of the screening regime. This stage of the review addressed the problem of investments taking too long to be assessed, too many immaterial transactions being screened and a lack of direction or clarity to the Overseas Investment Office (OIO) about how to implement certain parts of the Act. This stage of the review has been completed and resulted in the following changes:

- Greater decision-making powers were delegated to the OIO, allowing it to decide all applications except those relating to rural sensitive land or land adjoining waterways. This ended the need for a large number of ministerial decisions. This change was made by issuing a new directive letter to the OIO.
- Several types of transaction of a minor, technical or temporary nature were exempted from screening, for example underwriting transactions or sales within a group of companies with shared ownership. This change was made by regulatory amendment.
- Clearer directions were provided to the OIO regarding when the Government wants to purchase special land when it is offered for sale. This reduced the time and costs for applicants. This change was made by issuing a new directive letter to the OIO.
- Clearer directions were provided to the OIO on what reserves and public parks should be included in a list under the Act. Under the Act any land adjoining land on the list is considered sensitive. (This was limited to land held for a purpose relating to protecting or providing public access to natural and physical resources or historic heritage). This change was made by issuing a new directive letter to the OIO.

7. The second stage of the review initially looked at changes to the Act that could reduce compliance costs for investors while maintaining protections for sensitive assets. A significant amount of work was undertaken on this part of the review and the Treasury produced two Regulatory Impact Statements (RISs) which incorporated the full Regulatory Impact Analysis carried out. A range of options were considered that would reduce compliance costs for investors. The RISs that assessed these options will be released separately to show the range of options that were considered.

8. However since that time the review has been refocused in response to Ministerial request. The second part of the review is now focusing on a much narrower range of issues relating to concerns raised in the public debate about foreign investment in agricultural land:

   a. **Increased Ministerial flexibility to consider a wider range of issues when assessing overseas investments in sensitive land.** Ministers consider that it is important that the screening regime is able to address concerns that foreign investment, in some cases or sectors, may be detrimental to New Zealand's interests, and that the regime is able consider all relevant issues or concerns that may arise both now and in future. Two recent examples where this public concern has arisen are the 2008 bid by the Canadian Pension Plan Investment Board to purchase a stake in Auckland International Airport, and heightened recent foreign interest in investing in New Zealand's agricultural land. Examples of current concerns that screening regime does not necessarily consider are:

      i. concerns about the aggregation of farmland ownership by foreign investors, both by individual investors and foreign investors as a whole;
      ii. concerns that foreign investors will create vertically-integrated firms in the agricultural sector that control the market for agricultural products from production to consumers and with little or no New Zealand involvement;

iii. concerns that some government-controlled foreign investors seek to control resources for non-economic reasons.

b. **Improving clarity and certainty for investors.** There is a desire by Ministers to address the current uncertainty investors have over government policy on foreign investment, particularly as to whether there may be 'sensitive' sectors that are 'off-limits' or subject to special conditions. The Auckland Airport decision and recent public concerns about investment in the agricultural sector have created uncertainty for investors regarding these issues. Treasury and the Minister of Finance have both received anecdotal information from investors that they are unsure about the government's current policy on foreign investment. Investors have consistently given the message that providing certainty and clarity is the key priority.

9. These two problems are conflicting in that it is not possible to have complete flexibility for Ministers and complete certainty for investors. Achieving a reasonable balance between these two competing objectives is therefore important.

Objectives

10. The overall objective of the proposed changes is to achieve a balance between the two issues – maintaining public confidence and Ministerial flexibility and improving investor certainty.

11. The analysis on the following pages sets out the options considered in this review and their expected impacts. The impacts of the various options have been assessed against the criteria outlined in the table below. A rating of 'high' means the proposal is likely to have a large or significant impact, a 'medium' rating indicates a moderate impact, and a 'low' rating indicates a small or no impact. Annex one outlines in more detail the criteria used to assess impact.

Increased investor certainty	Will the proposal improve certainty for investors?
Increased Ministerial flexibility	Will the proposal create additional flexibility for Ministers to address a wider range of public concerns? Will the proposal improve public confidence in the screening regime?
Degree of compatibility with international obligations	Will the proposal conflict with any of New Zealand's international obligations or create reputational risks to New Zealand?
Risks	Does the proposal create risks, such as avoidance, or implementation difficulties?

Regulatory impact analysis – options for change and impacts

Addressing public confidence and ministerial flexibility

Status Quo: To gain consent to invest in sensitive land, the investor must show:

- that the investment will benefit New Zealand;
- that the benefit will be substantial and identifiable (if the land includes non-urban land over 5 hectares); and

- if the relevant land is or includes farmland, that the farmland or has been offered for sale on the open market.

12. A combination of 19 economic, environmental, social and 'other' factors and criteria are used to assess whether or not an application is of benefit. The current screening regime is therefore able to consider a wide range of issues. There are no factors which specifically address the example of the public concerns listed in the problem definition section of this RIS. However the following factors may allow for them to be indirectly considered:

- whether the investment will allow New Zealand to maintain control of strategically important infrastructure assets;
- whether the investment will or is likely to result in increased processing in New Zealand of New Zealand's primary products; and
- whether the investment will or is likely to result in increased export receipts for New Zealand exporters.

13. The impacts of retaining the status quo are assessed against the four criteria in the table below:

Increased investor certainty	No change. The status quo does not alter investor certainty. It is possible that certainty will be reduced if the government does not outline its position.
Increased Ministerial flexibility	No change. The status quo does not change Ministerial flexibility or public confidence.
Degree of compatibility with international obligations	No change. The status quo does not conflict with any of New Zealand's international obligations or create reputational risks to New Zealand.
Risks	No change. The status quo creates no additional risks.

Option 1: add a new wider 'economic interest' factor to the benefit test

14. A new 'economic interests' factor could be added to the benefit test used to assess investments in sensitive land. Changes to the benefit test can be made by regulation. This factor would have a purpose and aim of:

    a. allowing Ministers to consider a wider range of economic issues in their assessment of a particular investment than the current screening regime allows, in particular whether New Zealand's economic interests are adequately safeguarded; and

    b. providing some flexibility to respond to both current concerns about foreign investment and concerns that may arise in future.

15. *[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*

16. To the extent possible 'economic interests' will be defined in the Regulations. However it will be difficult to precisely define this term without significantly reducing

flexibility for Ministers. *[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials*

17. This option is assessed against the four criteria in the table below:

Increased investor certainty	Low. Given the difficulty of precisely defining 'economic interests' Investors are likely to be unsure about what the term means and covers. Investors are required to show how their investment contributes to this factor which will be difficult in some cases.
Increased Ministerial flexibility	High. The factor provides Ministers with the ability to consider a relatively wide range of issues depending on how they choose to interpret 'economic interests'. The ability to consider a wider range of issues may improve public confidence if the public can see that their concerns are addressed.
Degree of compatibility with international obligations	Medium. New Zealand has flexibility to alter the factors used to assess investments in sensitive land. However the changes may be perceived as a restrictive measure by trading partners.
Risks	Medium. The influence of the factor on any one application is reduced because it cannot be used to decline an investment in its own right. There is a risk that using the regulation-making power will result in review by the Regulations Review Committee, as it has previously recommended that this power is removed or restricted. There is a further risk that this factor will be viewed by foreign investors, trading partners and international bodies, as restrictive on foreign investment, thus negatively impacting on New Zealand's reputation as being open for investment.

Option 2: add a 'mitigating factor' to the benefit test

18. The aim of this factor is to enable Ministers to consider whether there are opportunities for New Zealand oversight or involvement in the investment. Such a factor might address concerns that some investors may operate in jurisdictions where reporting standards are less transparent or robust than in New Zealand, and that there may be some cases where New Zealand is not prepared to fully relinquish control of an asset.

19. *[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*.

20. *[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials*

21. This option is assessed against the four criteria in the table below (the actual impact will vary depending on the final design of the new factor):

Increased investor certainty	Medium. The factor clearly sets out what an investor could do to mitigate concerns. However the factor creates uncertainty if it is not clear what type of investments the factor will be most relevant to.
Increased Ministerial flexibility	High. The proposal creates additional flexibility for Ministers to consider whether concerns can be mitigated by increasing New Zealand oversight or involvement. Public confidence may be increased if investments have a greater degree of New Zealand control or oversight.
Degree of compatibility with international obligations	Medium. New Zealand has retained some flexibility in its international agreements to alter the factors used to assess investments in sensitive land. *[Withheld - maintain the effective conduct of public affairs through the free and frank expression of opinions]* *[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*.
Risks	Medium. There is a risk that investors could avoid the factor if they can appoint proxies to act on their behalf. Mitigation depends on how well any requirements are monitored and enforced. Foreign investors, trading partners and international bodies (including the OECD) may view the inclusion of this factor as restrictive, hence impacting on New Zealand's reputation as an investment destination.

Option 3: Revoke the strategic assets factor

22. One of the current factors in the benefit test *is "whether the investment will allow New Zealand to maintain control of strategically important infrastructure assets located on sensitive land".* Under this option, the factor would be revoked, but replaced with the 'economic interests' factor. The reason for the revocation is that the 'economic interests' factor is intended to cover infrastructure assets, as well as other economic concerns.

23. This option is assessed against the four criteria in the table below:

Increased investor certainty	Medium. In isolation, removing the factor may improve certainty given it is unclear what this factor covers. However any increase in certainty could be offset if it is replaced with a similar factor.
Increased Ministerial flexibility	Low. In isolation flexibility is reduced by removing this factor. But the 'economic interests' factor provides a similar power that provides flexibility and should address public concerns.

Degree of compatibility with international obligations	High. Revoking this factor is unlikely to affect international obligations or trading partner perceptions.
Risks	Low. The replacement 'economic benefit' factor is designed to consider similar issues.

Improving investor clarity and certainty

Status Quo

24. The Minister of Finance is able to issue a directive letter to the OIO (the regulator) that covers the following issues:

    - the Government's general policy approach to overseas investment in sensitive New Zealand assets, including the relative importance of different criteria or factors in relation to particular assets;
    - the asset types, value thresholds, and area thresholds over which the regulator has power to make decisions;
    - the level of monitoring required in relation to conditions of consent;
    - the criteria for including reserves, public parks, or other sensitive areas on the list kept by the regulator under section 37 of the Act; and
    - any general or specific matter relating to the regulator's functions, powers, or duties.

25. The Minister has issued a directive letter to the OIO, which can be found at: http://www.linz.govt.nz/docs/overseas-investment/oio-publications-ministerial-directive-letter.pdf

26. The impacts of retaining the status quo are assessed against the four criteria in the table below:

Increased investor certainty	No change. Maintaining the current statement does not create additional certainty for investors. It would be likely to reduce certainty if it is not altered and the new factors outlined in the previous section are introduced.
Increased Ministerial flexibility	No change. Setting out government policy does not significantly impact on Ministerial flexibility.
Degree of compatibility with international obligations	No change. Setting out government policy does not impact on international obligations.
Risks	No change. Retaining the current letter does not create additional risks.

Option 1: issue a revised Directive Letter to the OIO

27. To avoid deterring investment it is important that investors have a degree of certainty about government policy towards foreign investment, regardless of whether these policies are open or restrictive.

28. To provide greater clarity, the Government could publicly set out its position on foreign investment. The current Directive Letter to the OIO does this to some

extent, but there is an opportunity to improve and update it to take account of other changes to the screening regime. The statement would cover the following issues:

a. The Government's general attitude towards foreign investment in sensitive assets.

b. Advice to the Overseas Investment Office (OIO) about which factors in the benefit test are likely to be more or less important for particular types of investments.

29. Under this option these issues would be set out in the Directive Letter to the Overseas Investment Office. This letter is Gazetted and published on the OIO website.

30. This option is assessed against the four criteria in the table below:

Increased investor certainty	Medium. The statement would clarify the government's policy position across a range of issues. However the directive only provides guidance and it will be hard to define with any precision what economic interests are without restricting Ministers' flexibility. As a result uncertainty will remain over exactly what 'economic interests' will include.
Increased Ministerial flexibility	Medium. Setting out government policy does not significantly impact on Ministerial flexibility.
Compatibility with international obligations	High. Setting out government policy does not impact on international obligations. *[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*.
Risks	Low. There is a risk that the government could issue a new statement at short notice in response to a particular investment. However this risk is low because the statement is guidance only.

Option 2: Issue a standalone Government Policy Statement

31. Under this option the same directives and statement above would be set out in a standalone policy statement rather than through the Directive Letter. The table below assesses any differences this option has from providing this guidance through the directive letter.

Increased investor certainty	Low. Certainty is not improved as the OIO is unable to consider any guidance issued in a policy statement. The Act requires this is done via the Directive Letter.
Increased Ministerial flexibility	No change from the previous option.
Compatibility with international obligations	No change from the previous option.
Risks	No change from the previous option.

Conclusion and Treasury view

32. The options presented in this paper are largely independent in that they can be introduced together or separately. For example it would be possible to introduce the 'economic interests' factor and not the 'mitigating factor' or vice versa. A

decision on which options to introduce will depend on how much additional flexibility is desired by Ministers.

Treasury view

33. Treasury's first best advice is that there is not a strong policy rationale for screening overseas investment at all on the basis that the underlying policy concerns tend to occur regardless of the investor's nationality.

34. In relation to the proposals in this RIS, there is an important prior question about whether the current concerns are valid and should be addressed by the screening regime. We do not answer this question in detail because we have previously provided more detailed advice to Ministers which is intended to be separately released. However, in short, Treasury does not consider that it is necessary to use the investment screening regime to respond to these concerns. OCED and other research find that there is no sign of non-commercial behaviour from government-controlled investors although there may be valid concerns about the transparency of some investors. Concerns about aggregation of farmland and vertical integration are likely to be more related to market power issues which could arise regardless of the nationality of the owner. As such if there is a problem, any policy response should not be specific to foreign investors.

35. However, to maintain perspective it is important to remember that the screening regime is only one of many factors that influence the attractiveness of New Zealand as an investment destination.[1] None of the proposed changes create pass/fail tests that can decline investments in their own right. While we would likely expect there to be a slight worsening of investor perceptions towards New Zealand, there is unlikely to be a dramatic drop in investment in investment flows.

Consultation

36. Consultation on this particular stage of the review have been limited to the following agencies:

    *Overseas Investment Office, Ministry of Foreign Affairs and Trade, Ministry of Agriculture and Forestry, Ministry of Economic Development, and the Ministry of Fisheries.*In addition the following agencies have been informed of the proposals:

37. The following agencies have been informed of the changes:

    Department of Prime Minister and Cabinet, Ministry of Conservation, Walking Access Commission New Zealand Trade and Enterprise, Department of Internal Affairs, Te Puni Kōrkiri, Ministry for the Environment, and the Department of Labour.

38. In previous work on the review, proposals were discussed with a Technical Reference Group made up of lawyers who have expertise in working with the Act. However due to time constraints the Group has been only informed of the proposals. While previous stages of the review have allowed reasonable time for consultation, we have been asked to develop the proposals in this RIS in a short

[1] See *International Connections and Productivity: Making Globalisation Work for New Zealand* (Treasury 2009)

time. The consultation in this phase of the review has therefore been limited because of the time available to consult.

Summary of key feedback received:

Feedback	How addressed
The actual policy problem is unclear and it is unclear how the new proposals address the problems around ministerial flexibility and public concern. The paper does not identify why or how the current regime does not, or could not address these concerns.	Treasury agrees that there is not a problem that needs to be addressed by the screening regime. Additional information has been added about the nature of the public concerns on foreign investment including a note that they are not directly addressed by the screening regime.
Information about the risks around consistency with international obligations and risks to our reputation is not sufficient.	Further information has been included on these points.
The RIS should include more alterative options and explain why the proposed options have been included.	In the time available we have not analysed a large range of options however previous RISs have assessed a large range of possible changes to the Act. There are a variety of options for the final drafting of any new factors which will be assessed through the drafting process.
The directive letter cannot provide guidance on the types of investments that are likely to attract more scrutiny, or how investors might offset concerns about a particular investment.	This has been removed from the proposed scope of the revised directive letter.
[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]	*[Withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*

Implementation

The proposals will require amendments to the Overseas Investment Regulations 2005. Any amendments are expected to be in force by the end of 2010.

Applications made before any changes have come into effect will be considered on the basis of the current screening regime. Applications made after changes have come into effect will be assessed on the basis of the new screening regime.

Monitoring, evaluation and review

The proposals may increase the time required for the OIO to assess investment applications and to monitor compliance with any conditions of consent.

Officials will assess the size and impact of these effects six months after any changes have come into force. Depending on the outcome, additional resources may be required at the OIO which would need to be supported by increasing the fees charged to investors.

Annex One: Criteria used to assess the impact of proposals

The table below outlines the criteria that have been used to assess the impact of the proposals:

Criteria	Impact	Assessment
Increased investor certainty	High	The proposal will significantly improve certainty of process or outcomes for investors (therefore reducing the likelihood of the regime deterring/delaying investment).
	Medium	The proposal will moderately improve certainty of process or outcomes for investors.
	Low	The proposal will have little or no impact on certainty of process or outcomes for investors.
Increased Ministerial flexibility	High	The proposal will substantially increase the amount of flexibility that Ministers have to address public concerns when assessing an investment.
	Medium	The proposal will moderately increase the amount of flexibility that Ministers have to address public concerns when assessing an investment.
	Low	The proposal will have little or no impact on the amount of flexibility that Ministers have to address public concerns when assessing an investment.
Degree of compatibility with international obligations	High	The proposals are consistent with New Zealand's international obligations.
	Medium	The proposals will have a moderate impact on New Zealand's international obligations.
	Low	The proposals are not compatible or consistent with New Zealand's international obligations.
Risks	High	The proposals raise significant avoidance, implementation or other risks.
	Medium	The proposals raise some moderate avoidance, implementation or other risks.
	Low	The proposals raise no or little avoidance, implementation or other risks.