

Treasury Report: Exemptions from Overseas Investment Act Requirements for Oil and Gas Companies

Date:	3 December 2009	Report No:	T2009/2627
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Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Bill English)	Note that we recommend that exemptions for oil and gas companies investing in New Zealand not be investigated further. Refer a copy of this report to Hon Brownlee for his information.	7 December 2009
Associate Minister of Finance (Hon Simon Power)	Note the content of this report.	None

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
[withheld – privacy]	Analyst, International	[withheld – privacy]	[withheld – privacy]	✓
Nic Blakeley	Acting Manager, International	[withheld – privacy]	[withheld – privacy]	

Minister of Finance's Office Actions (if required)

Refer this report to the Minister of Energy and Resources, Hon Brownlee, for his information.

Enclosure: **No**

Treasury Report: Exemptions from Overseas Investment Act Requirements for Oil and Gas Companies

Purpose of Report

1. During our recent briefing with Hon Brownlee on the Overseas Investment Act review on 18 November, Hon Brownlee queried whether an exemption from screening could be provided for oil and gas firms undertaking significant investment in New Zealand. This report provides our advice in response to the Minister's question.

Discussion

Query

2. Hon Brownlee asked whether it would be possible, in the context of the review, for oil and gas companies which are seeking to set up a domestic base in New Zealand to be granted an exemption from the requirements of the Act. Hon Brownlee was interested in the case of firms that have been undertaking exploration off the coast of New Zealand and, in the case of a discovery being made, were looking to set up more permanent exploration and extraction facilities. Such operations could involve investment in significant business assets or sensitive land and therefore be subject to screening. Hon Brownlee asked whether an exemption could be granted due to the significant contribution these activities would make to the economy.

Analysis

3. The current rationale for offering exemptions from screening is based on either an investment being a technical transaction of little policy interest, or investors essentially being New Zealand owned and controlled. These exemptions have been given in line with the purpose of the Act, which is to screen investments in sensitive assets made by overseas persons. We are considering a new exemption for New Zealand linked repeat investors as part of the review, where an investor could show prior successful applications and evidence of strong links to New Zealand (such as local headquarters or listed on the NZX).
4. We agree that the potential economic benefits from developments in the oil and gas industry could be significant. However, we see several potential problems with the idea of an exemption:
 - oil and gas companies seeking to operate in New Zealand are likely to be majority overseas owned and controlled, which are the types of companies intended to be screened by the Act;
 - a sector-based exemption would be a departure from the current comprehensive screening approach and could create pressure for exemptions for other industries; and
 - an exemption based on 'significant economic benefit' would be difficult to specify and could potentially capture a large number of investors, which would potentially undermine the purpose of the Act.
5. For these reasons, we recommend that exemptions for oil and gas companies not be investigated further.

Impact of the Review

6. The simplifications proposed by the Overseas Investment Act review are likely to reduce compliance costs faced by overseas oil and gas firms investing in New Zealand. Although these changes are not specific to the sector, they are designed to reduce the costs that investors face when going through the screening regime.

Recommended Action

We recommend that you:

- a **note** that we recommend that exemptions from the requirements of the Overseas Investment Act for oil and gas companies investing in New Zealand not be investigated further; and
- b **refer** a copy of this report to the Minister of Energy and Resources for his information.

Agree/disagree.

Nic Blakeley
**Acting Manager, International
for Secretary to the Treasury**

Hon Bill English
Minister of Finance