

# The Treasury

## Foreign Trust Inquiry Information Release

### Release Document July 2016

[www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules](http://www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules)

Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

[1]	to prevent prejudice to the security or defence of New Zealand or the international relations of the government	6(a)
[2]	to protect the privacy of natural persons, including deceased people	9(2)(a)
[3]	to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials	9(2)(f)(iv)
[4]	to maintain the effective conduct of public affairs through the free and frank expression of opinions	9(2)(g)(i)
[5]	that the making available of the information requested would be contrary to the provisions of a specified enactment [the Tax Administration Act 1994]	18(c)(i)

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [2] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9 and section 18 of the Official Information Act.

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**From:** Jessica Rowe <Jessica.Rowe@ird.govt.nz>  
**Sent:** Thursday, 14 April 2016 12:59 p.m.  
**To:** 'maraina.hak@parliament.govt.nz'; 'paul.kilford@parliament.govt.nz'  
**Cc:** Carmel Peters; PAS Policy Team - Carmel; ^IRD: Naomi Ferguson; ^IRD: Struan Little; Emma Grigg; ^IRD: David Carrigan; ^IRD: Matt Bengel; ^IRD: Christina Goodall; s9(2)(g)(i) Steve Mack [TSY]; Suzy Morrissey [TSY]  
**Subject:** BEPS timeline  
**Attachments:** 2016.04.07 BEPS action progress INTERNAL ONLY2.docx; BN2016-150 Timeline for International Tax Work Programme.docx; BEPS reform timeline.pptx

Hi Paul and Maraina

Please see attached the BEPS timeline briefing note and attachments.

Cheers  
Jess

**Jess Rowe** | Senior Policy Advisor, Policy and Strategy | **Inland Revenue**  
s9(2)(a) | F. +64 4 903 2413 |  
E. [Jessica.rowe@ird.govt.nz](mailto:Jessica.rowe@ird.govt.nz)

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## Briefing note

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Reference: BN2016/150

Date: 14 April 2016

To: Maraina Hak and Paul Kilford

cc: Naomi Ferguson, Commissioner  
Struan Little, Deputy Commissioner  
Matt Benge, Chief Economist  
Emma Grigg, Policy Director  
David Carrigan, Policy Director  
s9(2)(g)(i)  
Government & Executive Services (Ministerial Services)  
Policy records management (PAS RM)

From: Carmel Peters and Jess Rowe

Subject: **Timeline for the International Work Programme**

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The attached table and calendar show the proposed timeline for delivery of the international tax work programme (in particular the BEPS related measures).

These timeframes are indicative only as there are a number of variables in the policy process that can affect the delivery.

Carmel Peters  
**Policy Manager**  
04 890 6139

Jess Rowe  
**Senior Policy Advisor**  
04 890 2980

Action and final recommendations of OECD Action Plan and Automatic Exchange of Information	Corresponding NZ response	Proposed timeline
<b>Tax challenges of the digital economy:</b> report identifying issues raised by the digital economy and possible actions to address them [Action 1]	The introduction of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Bill had its second reading on 31 March.	Legislation in force from 1 October 2016.
<b>Neutralise the effects of hybrid mismatch arrangements:</b> changes to the OECD Model Tax Convention and recommendations regarding the design of domestic rules [Action 2]	Developing hybrid mismatch rules for New Zealand law based on OECD recommendations for consultation mid-year and possible legislation late this year.	Public consultation July 2016. Legislation late 2016.
<b>Limit base erosion via interest deductions and other financial payments:</b> recommendations regarding the design of domestic rules [Action 4]	Developing advice to Ministers on OECD recommendations and potential options for limiting interest deductions reporting to Government mid-year.	Reporting to Ministers July 2016. Public consultation August/September 2016. [Legislation possibly late 2016/early 2017.]
<b>Counter harmful tax practices more effectively, taking into account transparency and substance:</b> finalise review of member country regimes strategy to expand participation to non-OECD members and revision of existing criteria [Action 5]	New Zealand doesn't have harmful tax practices. New Zealand complying with requirements to exchange relevant binding rulings and advance pricing agreements as recommended by OECD.	Already compliant.
<b>Automatic Exchange of Information:</b> implement the OECD/G20 standard for automatic exchange of financial account information in tax matters	Officials' issues paper <i>Implementing the global standard on automatic exchange of information</i> released in February 2016. Legislation planned for mid-year.	Legislation introduced mid-2016.
<b>Require taxpayers to disclose their aggressive tax planning arrangements:</b> recommendations regarding the design of domestic rules [Action 12]	Improve information disclosure for large corporates. Commencement of regular and targeted questionnaires and surveys of foreign-owned firms in 2015.	On-going
<b>Development of a multilateral instrument [Action 15]</b>		
<b>Prevent treaty abuse:</b> changes to the OECD Model Tax Convention and recommendations regarding the design of domestic rules [Action 6]	Working with the OECD on a multi-lateral instrument for New Zealand's signing before the end of this year.	Report to Ministers July 2016. MLI signed by 31 December 2016. Domestic legislation introduced (if necessary) early 2017.
<b>Prevent the artificial avoidance of permanent establishment status:</b> changes to the OECD Model Tax Convention [Action 7]	Working with the OECD on a multi-lateral instrument for New Zealand's signing before the end of this year.	Report to Ministers July 2016. MLI signed by 31 December 2016. Domestic legislation introduced (if necessary) early 2017.

<b>Make dispute resolution mechanisms more effective:</b> recommendations on operational minimum standards and best practices for dispute resolution <b>[Action 14]</b>	Implementing recommendations for minimum standards and best practice. Also, working with the OECD on a multi-lateral instrument covering binding arbitration for New Zealand's signing before the end of this year.	Report to Ministers July 2016. Public consultation September 2016. MLI signed by 31 December 2016. Domestic legislation introduced (if necessary) early 2017.
<b>Transfer pricing Action Items</b>		
<b>Assure that transfer pricing outcomes are in line with value creation - intangibles, risk and capital, and other high-risk transactions:</b> changes to the OECD Transfer Pricing Guidelines <b>[Actions 8-10]</b>	New Zealand will apply the changes to the OECD Transfer Pricing Guidelines. This may involve making changes to domestic legislation.	Where domestic legislation is required to support the change to the OECD Transfer Pricing Guidelines, this will be introduced in late 2016.
<b>Re-examine transfer pricing documentation:</b> changes to OECD Transfer Pricing Guidelines and recommendations regarding the design of domestic rules <b>[Action 13]</b>	Implementing country by country reporting. This may involve making changes to domestic law.	Where domestic legislation is required to support the change to the OECD Transfer Pricing Guidelines, this will be introduced in late 2016.
<b>Additional New Zealand initiatives</b>	<b>Description</b>	<b>Timeline</b>
NRWT and related party debt	Address problems with the application of NRWT on interest on related party debt	Legislation to be introduced May 2016
LTCs/transparent entities	Examine incoherence in relation to taxation of "look-through vehicles" and structures	Legislation to be introduced May 2016
GAAR/DTA override	Clarify that the domestic general anti-avoidance rule overrides treaties	Legislation to be introduced May 2016

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**From:** Steve Mack [TSY]  
**Sent:** Thursday, 7 April 2016 2:07 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** FW: Foreign trusts OIA - s9(2)(a)  
**Attachments:** IR2016-107 - s9(2)(a) Foreign foreign trusts.pdf

[IN-CONFIDENCE]

FYI

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**From:** Samantha Aldridge [mailto:Samantha.Aldridge@ird.govt.nz]  
**Sent:** Thursday, 7 April 2016 12:33 p.m.  
**To:** s9(2)(g)(i)@ird.govt.nz; ^IRD: s9(2)(g)(i)@ird.govt.nz; John Nash <John.Nash@ird.govt.nz>; ^IRD: Struan Little <Struan.little@ird.govt.nz>; Emma Grigg <Emma.Grigg@ird.govt.nz>; Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>; Carmel Peters <Carmel.Peters@ird.govt.nz>  
**Cc:** s9(2)(g)(i)@ird.govt.nz; PAS Policy Team - Carmel <PASPolicyTeam-Carmel@ird.govt.nz>  
**Subject:** Foreign trusts OIA - s9(2)(a)

Hi guys

Report attached FYI. s9(2)(g)(i) Thanks very much for all your hard work on getting this out - hugely appreciated!

Cheers  
Sam

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**From:** Carmel Peters <Carmel.Peters@ird.govt.nz>  
**Sent:** Wednesday, 6 April 2016 11:11 a.m.  
**To:** 'paul.kilford@parliament.govt.nz'; Steve Mack [TSY]  
**Cc:** 'maraina.hak@parliament.govt.nz'  
**Subject:** foreign trusts questions from MOR  
**Attachments:** foreign trusts questions from MOR.docx

**Categories:** NZ First OIA

Draft note

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## **DRAFT 2006 REFORMS**

### **1. What prompted us to reform our requirements in terms of disclosure etc in relation to foreign trusts?**

We improved our regulation of foreign trusts with legislation passed in 2006. (The process of reform started in 2004.) The new legislation imposed record keeping requirements on foreign trusts and required them to disclose to Inland Revenue the existence of the foreign trust and the name of the trustees. We also required the trustee to disclose if the settlor was Australian resident.

We were indeed responding to concerns expressed by the Australian Government. As far as Australia goes, the general expectation we have of each other in terms of the standard and quality of information exchange between us has exceeded international norms for many years.

Concerns had also been raised more widely – particularly in relation to the OECD’s work on “harmful tax practices”. The foreign trust regime was not a “harmful tax practice”. However, February 2003 the OECD agreed that all trustees should be required to maintain accounting records and related source documents as a minimum standard. It was also decided that the country of the residence of the trustee should prescribe these standards in law. The 2006 reforms were designed to meet the OECD minimum standard.

Apart from the commitment to automatically exchange the information regarding the existence of a trust settled by an Australian resident with Australia, the legislation we passed was generic and applied in respect of all our treaty partners.

### **2. How would another country know to make an inquiry if it didn’t know the name of the trust or the New Zealand trustee?**

There are a couple of possibilities. The jurisdiction may pick up the existence of a New Zealand trust through its own investigations. That is, in the context of its own compliance activity, the jurisdiction sees a New Zealand trust in the documented structure.

Another possibility is that New Zealand has made a spontaneous exchange with a jurisdiction about the existence of a foreign trust in New Zealand. Inland Revenue does investigate foreign trust providers from time to time. It does this to ensure the trusts are indeed foreign trusts among other things. If, in the course of investigations of client files leads the Inland Revenue to believe there is information that would be of interest to a treaty partner it will spontaneously exchange information. That exchange will provide the relevant information at hand (not just the name of the trustee).



### **3 What countries have been provided with information about foreign trusts?**

As far as we can readily ascertain without reviewing all our exchange of information files, we have provided information on foreign trusts to over 20 of our tax treaty partners, some of which have come back to us requesting additional information to assist them in the inquiries they have made as a result of the information we exchanged in first instance.

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**From:** Andrea Black <Andrea.Black@ird.govt.nz>  
**Sent:** Monday, 4 April 2016 3:00 p.m.  
**To:** Steve Mack [TSY]  
**Subject:** RE: Foreign trusts

**Categories:** NZ First OIA

Yep.

That is why I was trying to front foot it all those months ago.

Sent with Good (www.good.com)

-----Original Message-----

**From:** Steve Mack [TSY] [[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)]  
**Sent:** Monday, April 04, 2016 12:53 PM New Zealand Standard Time  
**To:** Andrea Black  
**Subject:** Foreign trusts

[UNCLASSIFIED]

[http://www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=11616350](http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11616350)

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**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 8 April 2016 1:25 p.m.  
**To:** Suzy Morrissey [TSY]; Steve Mack [TSY]; 'Emma Grigg'; 'Carmel Peters'  
**Cc:** Maraina Hak  
**Subject:** Final scope document  
**Attachments:** Foreign trusts scope document (2).docx  
  
**Categories:** NZ First OIA

Thanks for your feedback. It has been incorporated into this draft (changes are marked) along with some comments from PMO. Unless I hear violent objections, a clean version of this document will be the final.

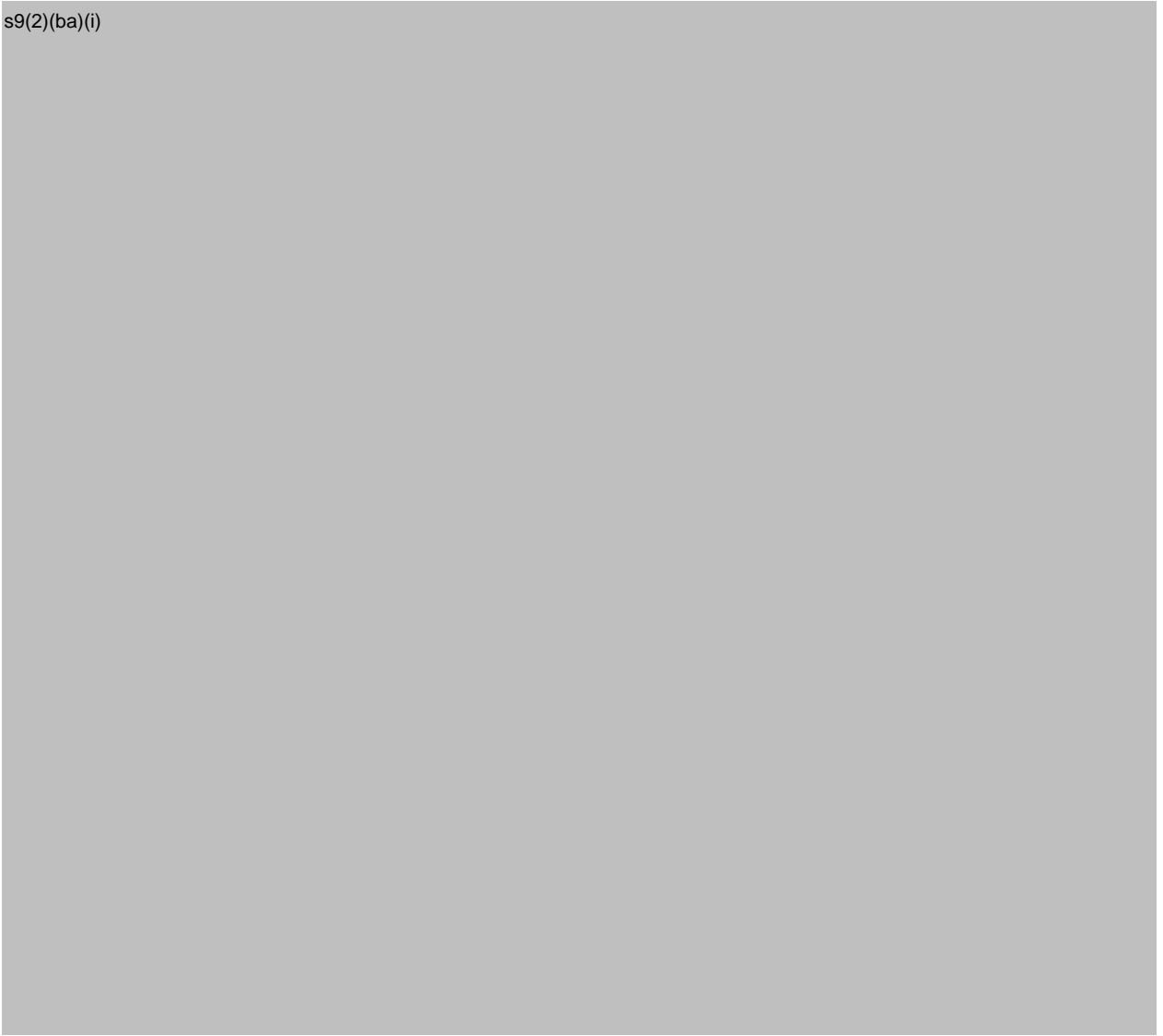
Cheers  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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## Scope document

s9(2)(ba)(i)



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**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 8 April 2016 12:51 p.m.  
**To:** 'Emma Grigg'; Suzy Morrissey [TSY]; 'Carmel Peters'; Steve Mack [TSY]  
**Cc:** Maraina Hak  
**Subject:** RE: Scope document  
**Attachments:** Foreign trust review - PR.DOCX  
  
**Categories:** NZ First OIA

And now the draft PR...

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**From:** Paul Kilford  
**Sent:** Friday, 8 April 2016 12:24 p.m.  
**To:** Emma Grigg; Suzy Morrissey [TSY]; 'Carmel Peters'; Steve Mack  
**Cc:** Maraina Hak  
**Subject:** Scope document

Hi all

Your feedback on this would be greatly appreciated. Preferably sometime relatively soon!

Suzy, it is currently drafted as a report to Ministers, but I'm still talking internally about that.

We think the 30 June deadline might be OK s9(2)(f)(iv)  
s9(2)(f)(iv)

Cheers  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**Hon Bill English**

**Minister of Finance**

**Hon Michael  
Woodhouse**

**Minister of Revenue**




**DRAFT - 11 April 2016**

**Media Statement**

## **Review of foreign trust disclosure rules**

s9(2)(ba)(i)

s9(2)(ba)(i)



**Media contacts: Cameron Burrows (Minister English)**  
**Yvette McKinley (Minister Woodhous**

s9(2)(a)



***Append Review's Terms of Reference here.....***

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**From:** Carmel Peters <Carmel.Peters@ird.govt.nz>  
**Sent:** Thursday, 7 April 2016 12:23 p.m.  
**To:** Paul Kilford; PAS Policy Team - Carmel; John Nash; Steve Mack [TSY]  
**Cc:** Emma Grigg; s9(2)(g)(i)  
**Subject:** Foreign trusts - MoF one-pager  
**Attachments:** Foreign trusts - MoF one-pager.docx  
  
**Categories:** NZ First OIA

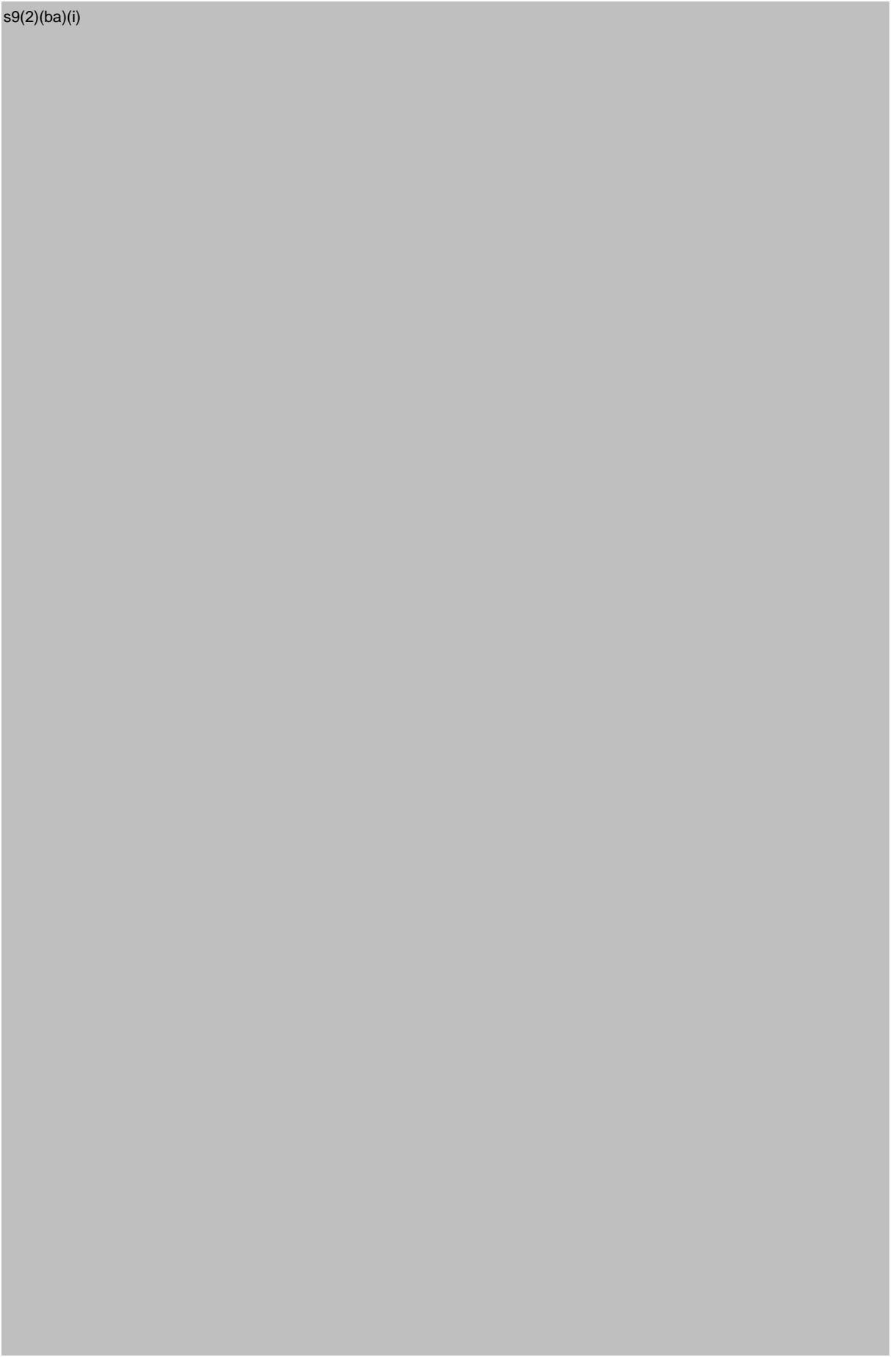
One further tweak

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## Foreign trusts

s9(2)(ba)(i)



s9(2)(ba)(i)



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**From:** Samantha Aldridge <Samantha.Aldridge@ird.govt.nz>  
**Sent:** Thursday, 7 April 2016 12:33 p.m.  
**To:** s9(2)(g)(i); ^IRD: s9(2)(g)(i) John Nash; ^IRD: Struan Little; Emma Griqq; Steve Mack [TSY]; Carmel Peters  
**Cc:** s9(2)(g)(i); PAS Policy Team - Carmel  
**Subject:** Foreign trusts OIA s9(2)(a)  
**Attachments:** IR2016-107 - s9(2)(a) Foreign foreign trusts.pdf  
**Categories:** NZ First OIA

Hi guys

Report attached FYI. s9(2)(g)(i) Thanks very much for all your hard work on getting this out - hugely appreciated!

Cheers  
Sam

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Inland Revenue  
Te Tari Taake

## POLICY AND STRATEGY

**Policy report:** **Response to Official Information Act request from**  
**s9(2)(a) : Foreign trusts correspondence since**  
**November 2014**

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<b>Date</b>	7 April 2016	<b>Priority:</b>	Medium
<b>Security level:</b>	In confidence	<b>Report no:</b>	IR2016/107

### Action sought

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	Action sought	Deadline
Minister of Revenue	<p><b>Note</b> the contents of this report and the attached draft OIA response.</p> <p><b>Refer</b> a copy of this report to the Minister of Finance for his information.</p> <p><b>Refer</b> a copy of this report to the Minister for Commerce and Consumer Affairs for his information.</p>	<p>13 April 2016</p> <p><b>Statutory deadline</b></p>

### Contact for telephone discussion (if required)

---

Name	Position	Telephone
Carmel Peters	Policy Manager	04 890 6139 (wk)
Samantha Aldridge	Senior Policy Advisor	04 890 6019 (wk)

## National Office

Level 8  
55 Featherston Street  
PO Box 2198  
Wellington 6140  
New Zealand

Telephone 04-890 1500  
Facsimile 04-903 2413

## POLICY AND STRATEGY

*Te Wāhanga o te Rautaki me te Kaupapa*

7 April 2016

Minister of Revenue

## Response to Official Information Act request from s9(2)(a) Foreign trusts correspondence since November 2014

On 14 March 2016, you received a request under the Official Information Act 1982 (OIA) via email from s9(2)(a) an advisor for the Green Party. s9(2)(a) has requested:

*'Can you please release all reports, briefings, and emails your office has received from IRD and all emails your office has sent to the IRD on the topic of foreign trusts, since November 1, 2014.'*

Our suggested letter of reply and information for release are attached. The statutory deadline for responding to the OIA request is 13 April 2016.

### Information to be released

We have identified the following items that fall within the scope of s9(2)(a) request. Where the item is an email chain, we have included the final email showing all emails in that chain.

These items are as follows:

Item	Date	Title	Description
1.	11 December 2014 9:40	RE: Foreign Trust Industry	<ul style="list-style-type: none"> <li>Email from Maraina Hak to Carmel Peters.</li> <li>Attachment: Summary Paper Outline Foreign Trusts 021214.docx s.</li> </ul>
2.	11 December 2014 15:53	Foreign Trusts agenda 18 Dec.docx	<ul style="list-style-type: none"> <li>Email from Maraina Hak to Carmel Peters.</li> <li>Attachment: Foreign Trusts – meeting with Hon Todd McClay 18 December.</li> </ul>
3.	12 December 2014 10:15	Foreign Trusts report pdf [12_12_14].pdf	<ul style="list-style-type: none"> <li>Email from Judy Cheng to Maraina Hak.</li> <li>Attachment: Foreign Trusts Rules Report T2014/2190; IR2014/620.</li> </ul>

4.	12 December 2014 10:53	Foreign Trusts Q & A	<ul style="list-style-type: none"> <li>• <u>Email</u> from Judy Cheng to Maraina Hak.</li> <li>• <u>Briefing note</u> Foreign <i>Trusts Q &amp; A</i> BN2014/621; T2014/2213.</li> </ul>
5.	16 February 2015 17:51	Meeting with OliverShaw	<ul style="list-style-type: none"> <li>• <u>Email</u> from Jessica Rowe to Maraina Hak.</li> <li>• <u>Attachments</u>: MOR agenda Feb 15.pdf; OliverShaw speaking notes 19 Feb 2015.docx.</li> </ul> <p><i>[NB: discussion of issues outside the scope of your request have been redacted]</i></p>
6.	24 February 2015	Agenda: Tax Policy Meeting with Minister of Revenue	<ul style="list-style-type: none"> <li>• <u>Agenda</u> for tax policy meeting between Minister of Revenue and officials on 24 February 2015. This included a verbal briefing to the Minister about foreign trusts.</li> </ul> <p><i>[NB: discussion of issues outside the scope of your request have been redacted]</i></p>
7.	18 March 2015 16:26	FW: Foreign trusts letter	<ul style="list-style-type: none"> <li>• <u>Email</u> from Carmel Peters copied to Maraina Hak</li> <li>• <u>Attachment</u>: Letter to Minister of Commerce and Consumer Affairs 180315.pdf</li> </ul>
8.	11 May 2015 14:13	RE: Foreign trusts	NB: Withheld under section 9(2)(f)(iv), draft version of letter released as item 11
9.	11 May 2015 14:22	FW: Foreign trusts	
10.	11 May 2015 15:46	Letter	<u>Email</u> from Carmel Peters to Maraina Hak
11.	14 May 2015 10:56	FW: Letter to s9(2)(a)	<ul style="list-style-type: none"> <li>• <u>Email</u> from Maraina Hak to Carmel Peters</li> <li>• <u>Attachment</u> s9(2)(a) 4052015.pdf</li> </ul>
12.	19 May 2015 12:04	Foreign trusts.msg	<ul style="list-style-type: none"> <li>• <u>Email</u> from Carmel Peters to Maraina Hak</li> <li>• <u>Attachment</u> Foreign trusts.msg.docx</li> </ul>
13.	19 May 2015 12:32	Foreign trusts	<u>Email</u> from Carmel Peters copied to Maraina Hak
14.	22 December 2014 – 8 May 2015.	Weekly status updates	References to foreign trusts in <u>weekly status updates</u> from Inland Revenue.

We note that, in respect of Item 6, Julie Anne Genter asked a similar question in her PQ #03506: *What reports or briefings has he received from IRD on foreign trusts since January 1, 2015?* The draft answer Inland Revenue provided to your office was: s9(2)(g)(i)

We do not consider that any of these items should be withheld under the OIA. However, we propose to withhold certain parts of most items under 9(2)(a) of the OIA to protect the privacy

of individual persons. These are the names and contact details of non-public servants, and the contact details (email addresses and phone numbers) of individuals in government departments and individuals in Ministers' offices.

Your office and Inland Revenue have recently received a number of OIA requests on this topic, with the statutory deadlines for response at the end of April and beginning of May 2016. You may wish to consider whether some or all these items should be publicly released. We would be happy to discuss this further with your office.

## Consultation

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We have consulted with Treasury on the preparation of this response. We will also advise s9(2)(a) that items 2, 5 and 7 (which relate to correspondence with s9(2)(a) s9(2)(a)) will be released.

## Recommended actions

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- (a) **Note** the contents of this report, including the attached draft letter and documents that we recommend you send to s9(2)(a) in response to his request.

*Noted*

- (b) **Refer** a copy of this report to the Minister of Finance.

*Referred*

- (c) **Refer** a copy of this report to the Minister for Commerce and Consumer Affairs.

*Referred*

s9(2)(a)

**Samantha Aldridge**  
Senior Policy Advisor  
Policy and Strategy

**Hon Michael Woodhouse**  
Minister of Revenue



## Office of Hon Michael Woodhouse

Minister of Immigration

Minister of Revenue

Minister for Workplace Relations and Safety

14 April 2016

s9(2)(a)

Thank you for your Official Information Act (OIA) request received on 14 March 2016. You have requested the following:

*Can you please release all reports, briefings, and emails your office has received from IRD and all emails your office has sent to the IRD on the topic of foreign trusts, since November 1, 2014.*

The items within the scope of your request are listed in the table below and attached. Where the item is an email chain I have included the final email showing all emails in that chain.

### Information Released

Item	Date	Title	Description
1.	11 December 2014 9:40	RE: Foreign Trust Industry	<ul style="list-style-type: none"><li>Email chain from Revenue private secretary to Inland Revenue official.</li><li>Attachment: <i>Summary Paper Outline Foreign Trusts 021214.docx</i> s</li></ul>
2.	11 December 2014 15:53	Foreign Trusts agenda 18 Dec.docx	<ul style="list-style-type: none"><li>Email from Revenue private secretary to Inland Revenue official</li><li>Attachment: <i>Foreign Trusts – meeting with Hon Todd McClay 18 December</i></li></ul>
3.	12 December 2014 10:15	Foreign Trusts report pdf [12_12_14].pdf	<ul style="list-style-type: none"><li>Email from Inland Revenue official to Revenue private secretary</li><li>Attachment: <i>Foreign Trusts Rules Report T2014/2190; IR2014/62</i></li></ul>



4.	12 December 2014 10:53	Foreign Trusts Q & A	<ul style="list-style-type: none"> <li>Email from Inland Revenue official to Revenue private secretary</li> <li>Briefing note <i>Foreign Trusts Q &amp; A</i> BN2014/621; T2014/2213.</li> </ul> <p><i>[NB: Partially withheld under Section 9(2)(f)(iv) to protect the confidentiality of advice.]</i></p>
5.	16 February 2015 17:51	Meeting with OliverShaw	<ul style="list-style-type: none"> <li>Email from Inland Revenue official to Revenue private secretary</li> <li>Attachments: MOR agenda Feb 15.pdf; OliverShaw speaking notes 19 Feb 2015.docx</li> </ul> <p><i>[NB: discussion of issues not relevant to foreign trusts have been redacted]</i></p>
6.	24 February 2015	Agenda: Tax Policy Meeting with Minister of Revenue	<ul style="list-style-type: none"> <li>Agenda for tax policy meeting between Minister of Revenue and officials on 24 February 2015. This included a verbal briefing to the Minister about foreign trusts.</li> </ul> <p><i>[NB: discussion of issues not relevant to foreign trusts have been redacted]</i></p>
7.	18 March 2015 16:26	FW: Foreign trusts letter	<ul style="list-style-type: none"> <li>Email from Inland Revenue official to Revenue private secretary</li> <li>Attachment: Letter to Minister of Commerce and Consumer Affairs 180315.pdf</li> </ul>
8.	11 May 2015 14:13	RE: foreign trusts	<i>[NB: Withheld under Section 9(2)(f)(iv), draft version of letter released as item 11.]</i>
9.	11 May 2015 14:22	FW: foreign trusts	<i>[NB: Withheld under Section 9(2)(f)(iv), draft version of letter released as item 11.]</i>
10.	11 May 2015 15:46	Letter	Email from Inland Revenue official to Revenue private secretary
11.	14 May 2015 10:56	FW: Letter to	<ul style="list-style-type: none"> <li>Email from Revenue private secretary to Inland Revenue official</li> <li>Attachment 14052015.pdf</li> </ul>
12.	19 May 2015 12:04	Foreign trusts.msg	<ul style="list-style-type: none"> <li>Email from Inland Revenue official to Revenue private secretary</li> <li>Attachment <i>Foreign trusts.msg.docx</i></li> </ul>

13.	19 May 2015 12:32	Foreign trusts	Email from Inland Revenue official to Revenue private secretary.
14.	22 December 2014 – 8 May 2015	Weekly status updates	References to foreign trusts in weekly status updates from Inland Revenue.

I have withheld some names and contact details in these documents under Section 9(2)(a) of the OIA, to protect the privacy of natural persons.

For the avoidance of doubt, at no time has Inland Revenue recommended that the foreign income of foreign trusts should be taxed. This position is long standing since it was established in 1988 and was upheld during the last government's review of the foreign trust regime in 2006.

The previous Minister of Revenue met with industry representatives who were following up on an item contained in the Inland Revenue policy report "Timeline for BEPS-related tax policy work", 14 November 2014 which can be found here:  
<http://taxpolicy.ird.govt.nz/publications/2014-other-beps-report/overview>

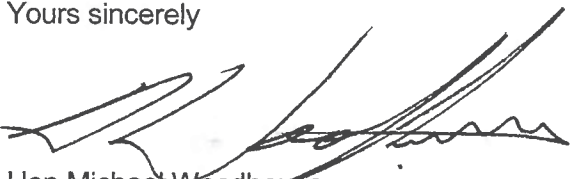
The following month officials delivered to the Minister a report titled "Foreign Trusts Rules", 12 December 2014 which is released to you as document 3. The report states with regard to foreign trusts, "We believe that the rules reflect good policy." This point is elaborated on in paragraph 8 which states, "We are not a tax haven, because tax havens are all about secrecy. We exchange information under our tax treaties, and have disclosure and record-keeping requirements in place that currently support the need to meet treaty requests for information about foreign trusts."

A wholesale review of the foreign trust regime was not commissioned by Ministers in 2015 due to higher policy priorities within Inland Revenue. This decision was considered within the context of the wider Base Erosion & Profit Shifting (BEPS) policy work programme Inland Revenue is pursuing in conjunction with the OECD. This work programme is laid out in detail in the aforementioned 14 November 2014 report. To date over a dozen actions have been taken, or are being taken, by the Government to fulfil New Zealand's BEPS obligations. In addition, the foreign trust regime does not contribute to New Zealand's tax base because no tax is due here.

Following the Minister's meeting with the foreign trust industry's advisors Olivershaw Limited, he wrote back to the industry representatives on 14 May 2015 stating the Government preserved the option to review the regulatory requirements if required. I announced such a review on Monday 11 April 2016.

I trust this satisfies your request. You are entitled to ask the Ombudsman to review this decision under section 28(3) of the Official Information Act.

Yours sincerely



Hon Michael Woodhouse  
**Minister of Revenue**

[REDACTED]

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**From:** [REDACTED]@parliament.govt.nz>  
**Sent:** Thursday, 11 December 2014 09:40  
**To:** Carmel Peters; Emma Grigg  
**Cc:** [REDACTED]  
**Subject:** RE: Foreign Trust Industry  
**Attachments:** Summary Paper Outline Foreign Trusts 021214.docx

Hi Carmel

Please see attached a background note the group has sent through to the Minister in advance of his meeting with them next Thursday. [REDACTED] indicated that he will send through a meeting agenda later today.

cheers, [REDACTED]

**From:** Carmel Peters [REDACTED]  
**Sent:** Wednesday, December 10, 2014 2:37 PM  
**To:** [REDACTED] Emma Grigg  
**Cc:** [REDACTED]  
**Subject:** RE: Foreign Trust Industry

Great. Will be in touch

**From:** [REDACTED]@parliament.govt.nz]  
**Sent:** Wednesday, 10 December 2014 2:35 p.m.  
**To:** Emma Grigg; Carmel Peters  
**Subject:** RE: Foreign Trust Industry

Hi

Just confirming that I will go up to Auckland on Thursday morning for this meeting with the Minister.

cheers, [REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, 4 December 2014 4:36 p.m.  
**To:** [REDACTED]  
**Subject:** RE: Foreign Trust Industry

Dear [REDACTED]

The attendees at our meeting with the minister will be:

[REDACTED] - Antipodes Trust Group Ltd  
[REDACTED] - Cone Marshall Ltd  
[REDACTED] - OliverShaw  
[REDACTED] - Barrister  
[REDACTED] - Anchor Trustees Ltd

██████████ – Asiatic Trustees Ltd

The intention is to provide the Minister with an overview of the foreign trust industry and how it benefits NZ and to air concerns about an apparent change of policy with n IRD. A follow up meeting in more detail may be sought in the new year but I think this is all we can cover in the time available on this occasion.

Thank you again for your help in scheduling this meeting.

Kind regards,

From: Carmel Peters ██████████  
Sent: Wednesday, December 03, 2014 12:31 PM  
To: ██████████ Struan Little; Emma Grigg  
Subject: RE: Foreign Trust Industry

Thanks ██████████

Will bear that in mind in how we write the report. Wasn't planning to get him to agree to any recommendation in this report. The idea is to present the issues for a subsequent discussion.

All the best,

Carmel

From: ██████████ <██████████@parliament.govt.nz>  
Sent: Wednesday, 3 December 2014 9:20 a.m.  
To: Struan Little; Emma Grigg; Carmel Peters  
Subject: FW: Foreign Trust Industry

FYI – please see below.

The Minister talked to me about this after our policy meeting with him yesterday morning. After further reflecting on the discussion with officials yesterday, he expressed some concern that one of the options that will be presented in the report to him before the end of the year would be a removal of the foreign trust regime.

The Minister will be in Auckland on the 18<sup>th</sup> of December (following his return from overseas) and is keen to meet with ██████████ to discuss the industry's concerns. The Minister also expressed a desire to meet with the industry body representing foreign trusts. Can you let me know if there is one and who they are? He was also keen to discuss this with someone from the private sector - I suggested ██████████

It would be good if the Minister had the foreign trust report for the proposed meeting with ██████████ and any other meetings he may wish to have with the private sector on this matter.

Happy to discuss.

thanks, ██████████

From: Hon Todd McClay  
Sent: Tuesday, 2 December 2014 7:41 p.m.  
To: ██████████  
Subject: FW: Foreign Trust Industry

See below.

Please make contact and arrange a time to meet. Perhaps on 18<sup>th</sup> when I am in Auckland.

**Hon. Todd McClay MP**

Member of Parliament for Rotorua  
Minister of Revenue  
Minister for State Owned Enterprises  
Assoc. Minister of Foreign Affairs  
Assoc. Minister of Trade

*Contact Detail:*

*Parliament Buildings*

*Wellington*

*PH 04 8178230*

*Fax 04 8176446*

*[todd.mcclay@parliament.govt.nz](mailto:todd.mcclay@parliament.govt.nz)*

*<http://www.toddmccclay.co.nz>*

*Rotorua Office*

*1241 Amohau Street*

*Rotorua*

*Ph 07 3485871*

*Te Puke Office*

*132 Jellicoe Street*

*Te Puke*

*Ph 07 5737125*

Authorised by Todd McClay M.P. 1241 Amohau St, Rotorua.

From: [REDACTED]

Sent: Tuesday, 2 December 2014 11:41 AM

To: Hon Todd McClay

Subject: Foreign Trust Industry

Dear Minister,

I am writing to you on behalf of a group of industry professionals operating in the New Zealand foreign trust industry. We are concerned that there appears to be a sudden change of view by the IRD in respect of their previous support for the industry. I have spoken to the Prime Minister about this and he advised that the Government has no current plans to change the status of the foreign trust regime applying in New Zealand. The PM asked me to contact you to arrange a meeting at your convenience with a small group of industry leaders who are keen to engage to explain how the regime works and the benefits to NZ of an industry which has been painstakingly built up over the last 25 years or so.

I would be most grateful if you could advise what dates and times you may have available for a meeting with perhaps 3 or 4 of us to put the industry's case and clear up any misconceptions which may be driving the current change of view at IRD.

Thank you for your consideration.

Yours sincerely,

[REDACTED]





## ANTIPODES TRUST GROUP LIMITED

[www.antipodetrust.co.nz](http://www.antipodetrust.co.nz)

Tel. +64 9 600 1530 Fax +64 9 973 0152  
Level 8 Forsyth Barr Tower, 55-65 Shortland Street, Auckland 1010, New Zealand  
PO Box 1822, Auckland 1140, New Zealand

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## Summary Paper Outline

### The foreign trust industry in New Zealand

A low profile industry domestically but has a high profile within its international niche market – world famous, but not in New Zealand. Unique in that New Zealand has a high value-added, internationally recognised, financial service sector. It provides a valuable contribution to our economy, including:

- Income to New Zealand
- Employment
- New Zealand tax revenue
- A foundation for growing New Zealand's skill base in international finance, private client services and wealth and estate planning
- A link between New Zealand and international high wealth families. Familiarity with and securing the confidence of those high wealth families can lead to investment in New Zealand.

At present, it is estimated that there are up to twenty thousand foreign trusts administered in New Zealand. Bell Gully, in a report published in January 2014, estimated the gross income earned in New Zealand by this service industry to be \$25,000,000.00 per annum. The figure may well be greater than \$30,000,000.00, and the industry supports more than 300 jobs: compare this to the flower and avocado export industries, which earn about the same amount, but with greater capital cost. The persons primarily employed in the industry are trained accountants, lawyers, book keepers and administrators. This, in itself, creates a minimum tax advantage for the country of at least \$10,000,000.00 per annum, not to mention the ancillary regulatory and service industries it supports. It is perplexing that the IRD is now talking about "shutting down" this industry, when it has carried out no investigation of the industry and its benefits to New Zealand, and has not consulted with the service providers, despite many offers from the industry to do so. A large number of international organisations and family offices have committed to establishing offices in New Zealand as a result of these rules. The recent announcement by the IRD has already resulted in concern by those persons, especially some US family offices that were planning to relocate to New Zealand.

### Why the industry has developed in New Zealand

Not just a tax issue – many high wealth families that manage their funds in New Zealand come from countries with low or no income tax – Saudi Arabia and Emirates, or see New Zealand as a safe and secure country in an unstable world.

They have trust and confidence in New Zealand's:

- Political stability
- Reliable legislation, and in particular, its respect for privacy and commercial confidentiality
- Judicial system – especially its familiarity with trust law
- Reliable and incorrupt administration
- Highly qualified, experienced and relatively inexpensive professional skill base
- International reputation for being reputable

- Geographical location, being in the centre of, and with easy communication with Latin America, North America, Asia and Middle East

However, a precondition for a viable international trust industry is internationally competitive tax rules. New Zealand has had this since 1988. A trust settled by non-residents is not taxable on non-New Zealand sourced income.

The New Zealand foreign trust industry leverages off the non-tax advantages outlined above. However, the accommodating tax laws are a pre-condition for the existence of this industry in New Zealand in a highly competitive international market. If New Zealand taxes the offshore income of non-residents, the industry will close. There are plenty of other jurisdictions offering non-residents no tax on foreign income – including USA, (most states have a foreign trust industry) Singapore, Israel, Hong Kong, Malta, the Netherlands and UK. Our other advantages would not compensate for such a tax impost when such alternatives exist.

#### The issue

New Zealand's foreign trust tax rules:

- Are consistent with New Zealand's overall tax policy framework and international norms – a country does not tax non-residents on offshore income
- Do not impose any threat to New Zealand's tax revenue
- Have been scrutinized by the OECD in detail (as late as 2014) and found not to be an international harmful tax practice.

Despite this, New Zealand tax policy officials have indicated that they would like to change the tax laws and tax foreign trusts on offshore income derived for the benefit of non-residents. As outlined above, this would be likely to destroy the New Zealand industry. The reason seems to be a view that it would enhance New Zealand's international reputation for tax probity in the context of the OECD/G20 Base Erosion and Profit Shifting (BEPS) project. There appears to be confusion in the tax officials' minds, between the worldwide abuse of shell companies, corporate profit shifting, and the use of trusts for family planning and succession services, New Zealand having gained its reputation for the latter. A narrow focus on taxation does not do justice to the country nor the trust industry, where there are nearly 500,000 domestic trusts alone, a large number of which have no taxation obligations in New Zealand.

In the BEPS context, New Zealand already has some of the most stringent international tax rules in the world. Unlike other countries, we have few measures that we could take to increase the robustness of our rules and thus demonstrate our commitment to the BEPS project. Sacrificing our foreign trust industry may be seen as one option available to us. However, this ignores:

- The actual and potential benefits the industry offers to the New Zealand economy
- The fact that other countries (e.g. USA) have similar rules and have signalled no intention to close them down
- Our foreign trust rules are consistent with international tax norms and have been validated by the OECD as not internationally harmful
- New Zealand has stringent and effective anti money laundering rules, and a wide network of double taxation agreements, and has committed to the automatic exchange of information.



This has the support of the trust providers in New Zealand. Any concern over trusts being used for the purposes of secrecy are negated by these rules.

- The recent implementation of FATCA and impending introduction of the OECD Global Reporting Standard under which foreign settlors will be unable to hide from their home jurisdictions. This seems to remove the policy officials' major concerns without any change to the foreign trust rules actually being required (and destroying a viable industry in the process).

Even an official government proposal to substantially change our foreign trust tax rules could have a substantial detrimental impact on the industry. This would be likely to undermine the trust and confidence built up over many years, whereby high wealth families have come to trust New Zealand as a safe country in which to centre their family wealth management.

### The Way Forward

New Zealand's international reputation for probity in international tax matters is very important to the New Zealand foreign trust industry. It is, in fact, the basis for the industry's existence. The industry is keen to engage with officials in ensuring New Zealand meets its international commitments on tax matters in areas such as appropriate levels of international information exchange.

However, the industry is also founded on New Zealand's international reputation as a safe and reliable country that will not impose taxes on non-residents with offshore income. Ill-considered proposals to change our tax rules will undermine the trust and confidence that has led many high wealth international families to centre their family wealth management in New Zealand. New Zealand would, in turn, lose the potential to leverage off a unique industry, in terms of developing internationally competitive skills and connections.

Any policy development in this area, therefore, should be managed with care, by way of discussions between the foreign trust industry and officials, within the existing and long-established policy framework, so that any changes that are made, are made in an informed and constructive manner.

[REDACTED]

---

**From:** [REDACTED]@parliament.govt.nz>  
**Sent:** Thursday, 11 December 2014 15:53  
**To:** Carmel Peters  
**Cc:** [REDACTED] Emma Grigg  
**Subject:** FW: Draft agenda for meeting 18th December re foreign trusts  
**Attachments:** Foreign Trusts agenda 18 Dec docx

Hi Carmel

Please see attached the agenda for the meeting next Thursday on Foreign Trusts.

thanks, [REDACTED]

**From:** [REDACTED]@olivershaw.co.nz]  
**Sent:** Thursday, December 11, 2014  
**To:** [REDACTED]  
**Subject:** Draft agenda for meeting 18th December re foreign trusts

[REDACTED]

Attached is a draft agenda for the meeting as discussed. Draft because Minister could always require changes.

[REDACTED]

Olivershaw Limited  
Web: [www.olivershaw.co.nz](http://www.olivershaw.co.nz)  
Email: [REDACTED]  
Level 1, Aviation House, 12 Johnston Street, Wellington  
PO Box 30-504, Lower Hutt 5040, NEW ZEALAND  
Phone: [REDACTED]

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## Foreign Trusts – Meeting with Hon Todd McClay 18 December

Venue: Offices of Antipodes Trust Co  
Level 8 Forsyth Tower  
55-55 Shortland Street  
Auckland

Attendees: [REDACTED] – Antipodes Trust Group Ltd  
[REDACTED] – John W Hart Ltd  
[REDACTED] – Anchor Trustees  
[REDACTED] – Antipodes Trust Group Ltd  
[REDACTED] – Asiatic Trust New Zealand Ltd  
  
[REDACTED] – (advisor) – Olivershaw Ltd

### Proposed Agenda

#### The issue

- New Zealand's foreign trust rules allow foreigners to invest their money through a trust managed in New Zealand without New Zealand tax on income sourced offshore. This is non-residents investing offshore - the rule follows the principle that a country does not tax the foreign income of non-residents.
- There has been public comment that next year the government may initiate a review of the foreign trust tax rules with a view to taxing such trusts on offshore income. This would close the New Zealand industry down – these investors can have their funds managed in many other countries that do not levy additional taxes on them.
- The Group would like a commitment from government as soon as possible that it will not conduct a public review of the foreign trust tax laws but will instead direct officials to work with the Group to improve the existing rules and regulatory regime and ensure that in areas such as information sharing New Zealand meets its international commitments.

#### Background to the Industry

- New Zealand foreign trusts have a high profile in this international niche market.
- Not driven by tax (many investors are from tax-free countries).
- Based on mix of our geography, skills, political stability and trust and confidence.
- Provides New Zealand with jobs, income, taxes. Also builds up a base of internationally competitive skills here and provides NZ with connections with high wealth families that is good for export opportunities, tourism and investment into NZ. Puts NZ on the map.

### There is no need for a general public review

- Announcing such a review would severely damage an industry based on long-term relationships and trust.
- The New Zealand foreign trust tax rules have been approved by the OECD as not being internationally harmful.

### What we want

- A commitment not to initiate a general review with taxing offshore income of foreign trusts as an option.
- Agreement that officials will work with the industry group to improve the rules and regulatory environment and ensure that we can meet the OCED proposed increased information sharing rules (implementation 2019 at the earliest).

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** Friday, 12 December 2014 10:15  
**To:** [REDACTED]  
**Cc:** [REDACTED] Carmel Peters  
**Subject:** RE: Draft agenda for meeting 18th December re foreign trusts  
**Attachments:** Foreign Trusts report pdf [12\_12\_14] pdf

[REDACTED]

The pdf copy of the report.

Will send the Q&As in briefing note form next.

[REDACTED]

**From:** [REDACTED]@parliament.govt.nz]  
**Sent:** Thursday, 11 December 2014 3:53 p.m.  
**To:** Carmel Peters  
**Cc:** [REDACTED] Emma Grigg  
**Subject:** FW: Draft agenda for meeting 18th December re foreign trusts

Hi Carmel

Please see attached the agenda for the meeting next Thursday on Foreign Trusts.

thanks, [REDACTED]

**From:** [REDACTED]@olivershaw.co.nz]  
**Sent:** Thursday, December 11, 2014  
**To:** [REDACTED]  
**Subject:** Draft agenda for meeting 18th December re foreign trusts

[REDACTED]

Attached is a draft agenda for the meeting as discussed. Draft because Minister could always require changes.

[REDACTED]

[REDACTED]

Olivershaw Limited  
Web: [www.olivershaw.co.nz](http://www.olivershaw.co.nz)  
Email: [REDACTED]  
Level 1, Aviation House, 12 Johnston Street, Wellington  
PO Box 30-504, Lower Hutt 5040, NEW ZEALAND  
Phone: [REDACTED]



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Inland Revenue  
Te Tari Taake

POLICY AND STRATEGY



THE TREASURY  
Kaitiaki Takekapa Raua

## Tax policy report: Foreign Trusts Rules

Date:	12 December 2014	Priority:	Medium
Security Level:	In Confidence	Report No:	T2014/2190 IR2014/620

### Action sought

	Action Sought	Deadline
Minister of Finance	Agree to the recommendations in this report	None
Minister of Revenue	Agree to the recommendations in this report	None

### Contact for telephone discussion (if required)

Name	Position	Telephone
Carmel Peters	Policy Manager, Inland Revenue	
Andrea Black	Principal Advisor, The Treasury	



12 December 2014

Minister of Finance  
Minister of Revenue

## Foreign Trusts Rules

1. In a recent report giving an expected timeline for BEPS related work (refer to IR2014/531), we signalled that our foreign trust rules could be improved. This report proposes that officials discuss with Ministers the merits of a review of the current rules for taxing foreign trusts.

2. The rules were introduced in 1988, as part of a wider package of international tax reforms. We believe that the rules reflect good policy. However, they do depart from international norms. Most countries' tax trusts on the basis of the residence of the trustee (which was New Zealand's previous approach). However, from 1988, New Zealand's rules for the taxation of trusts are based on the residence of the settlor. The difference between the two approaches creates an arbitrage opportunity (see paragraph 4 below).

3. New Zealand's approach of taxing a trust if the settlor is a New Zealand resident – regardless of the residence of the trustees – is principled. The general idea is that even though the trustees have legal ownership of the assets, the settlor is really the economic "power behind the throne" because they set up the trust by transferring the assets to the trust and appointing the trustees. They really control who the beneficiaries are and the terms of the trust deed. Taxation based on the settlor's residence makes it difficult for New Zealand residents to hide their assets offshore.

4. However, from this starting point it naturally follows that a trust with a foreign settlor is a foreign trust even when the trustees are resident in New Zealand. A foreign trust that derives foreign sourced income will not be taxed in New Zealand on that income (assuming no New Zealand resident beneficiaries). That income might also be free from tax in the foreign settlor's home jurisdiction because New Zealand's approach to taxing trusts differs from the international norm.

5. There is now a foreign trust industry in New Zealand that allows non-resident settlors to accumulate assets and income in a foreign trust with no New Zealand tax. Advisors/firms help foreigners establish and manage foreign trusts for a fee.

6. This has attracted criticism internationally – along the lines that we are a tax haven in this respect.

7. Over the last ten years, we have improved some of the regulation of the industry to ensure we can provide information to our treaty partners – especially Australia by requiring foreign trusts to be registered. Even so, there is a concern that our regulation is not good enough. Also, it is difficult to enforce compliance with the rules.

8. We are not a tax haven, because tax havens are all about secrecy. We exchange information under our tax treaties, and have disclosure and record-keeping requirements in place that currently support the need to meet treaty requests for information about foreign trusts. (Note, however, that the rules are more robust concerning exchange of information on foreign trusts with Australia, than for exchange of information with other jurisdictions.)

9. Having said this, the perception that we might be a tax haven are damaging to New Zealand's "clean" international reputation. This can only get worse in view of future developments by the OECD on BEPS, harmful tax practices, beneficial ownership and AEOI. In particular, although the OECD's Forum on Harmful Tax Practices (FHTP) and Global Forum on Transparency and Exchange of Information for Tax Purposes have previously scrutinised our foreign trusts rules, and identified no issues with the rules, the FHTP is currently redefining what the OECD sees as an unacceptable tax regime, and New Zealand will be subject to future review on the basis of the redefined criteria.

10. In light of that we have concerns about the following:

- The adequacy of our disclosure and record-keeping requirements – particularly in light of expanding obligations to exchange information now and in the future as a result of FATCA, AEOI, and the multilateral agreement for exchange of information and assistance.

• Our ability to realistically bring the regime up to the appropriate standard in a way that is enforceable and ensures compliance;

• The increased cost to Inland Revenue in policing a new set of rules – especially when there is no New Zealand tax to be collected.

11. The overall value of the industry to New Zealand economy should be weighed against these concerns. This is inherently difficult to measure, especially the value generated indirectly. However, our best estimates are that:

- There are about 8,000 foreign trusts with a New Zealand resident trustee that are currently active. This figure is based on the information disclosed to Inland Revenue under statutory disclosure requirements, but we understand that this figure may be a significant underestimate because of the existence of structures whose purpose is to defeat the statutory disclosure requirements.
- The value of the fees collected in respect of foreign trusts, plus employment income for 3<sup>rd</sup> party employees and principals for each foreign trust provider



entity, amounts to approximately \$24 million per annum, on average. This figure has been calculated from Inland Revenue data. (Other report estimates of fee income resulting from the industry range from \$20 million per annum<sup>1</sup> to \$50 million per annum.<sup>2</sup>)

- The contribution to the New Zealand tax take, in terms of income tax on fee income, goods and services tax, and PAYE paid on behalf of 3<sup>rd</sup> party employees and principals for each foreign trust provider entity, is around \$3 million per annum, on average. This figure has been calculated from Inland Revenue data.

12. The next step is for us to discuss with you the merits of adding a review of foreign trusts to our work programme.

### Recommended action

We recommend that you:

- 1 Note that in a recent publically released report giving an expected timeline for BEPS related work (refer to IR2014/531), we signalled that our foreign trust rules could be improved.

Noted

Noted

2 Agree to discuss with officials early next year whether a project to review the rules for taxing foreign trusts should be added to the tax policy work programme.

Agreed/not agreed

Agreed/not agreed

Andrea Black  
Principal Advisor  
Tax Strategy  
Treasury

Carmel Peters  
Manager  
Policy and Strategy  
Inland Revenue

Hon Bill English  
Minister of Finance

Hon Todd McClay  
Minister of Revenue

<sup>1</sup> IFSDG, "Exporting Financial Services: A Report from the International Funds Services Development Group" (IFSDG, 2011) at 47. Cabinet established the IFSDG in March 2010 to look at financial services opportunities for New Zealand. The estimate is said to be from industry sources in 2009.

<sup>2</sup> Refer to [www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=10844389](http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10844389).

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 12 December 2014 10:53  
**To:** [REDACTED]@parliament.govt.nz  
**Cc:** [REDACTED] Carmel Peters; 'Andrea.black [REDACTED]'; Struan Little; Emma Grigg; David Carrigan; 'make.nutsford [REDACTED]'; [REDACTED] Matt Benge  
**Subject:** Foreign Trusts Q & A  
**Attachments:** Briefing note attaching Q&A for meeting with industrty on 18 Dec docx

Hi [REDACTED] and [REDACTED]

Attached is a briefing note that provides some Q&As for the Minister of Revenue for his meeting with industry representatives of the foreign trust industry on 18 December.

Let me know if you need anything else.

Regards  
[REDACTED]

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Inland Revenue  
Te Tari Taake

POLICY AND STRATEGY



## Briefing note

Reference: BN2014/621  
T2014/2213

Date: 12 December 2014

To:

cc:

Struan Little, Deputy Commissioner  
Matt Benge, Chief Economist  
David Carrigan, Policy Director  
Emma Grigg, Policy Director  
Carmel Peters, Policy Manager  
Mike Nutsford, Policy Manager  
[redacted] PA to Deputy Commissioner

From: Andrea Black (The Treasury) and [redacted] (Inland Revenue)

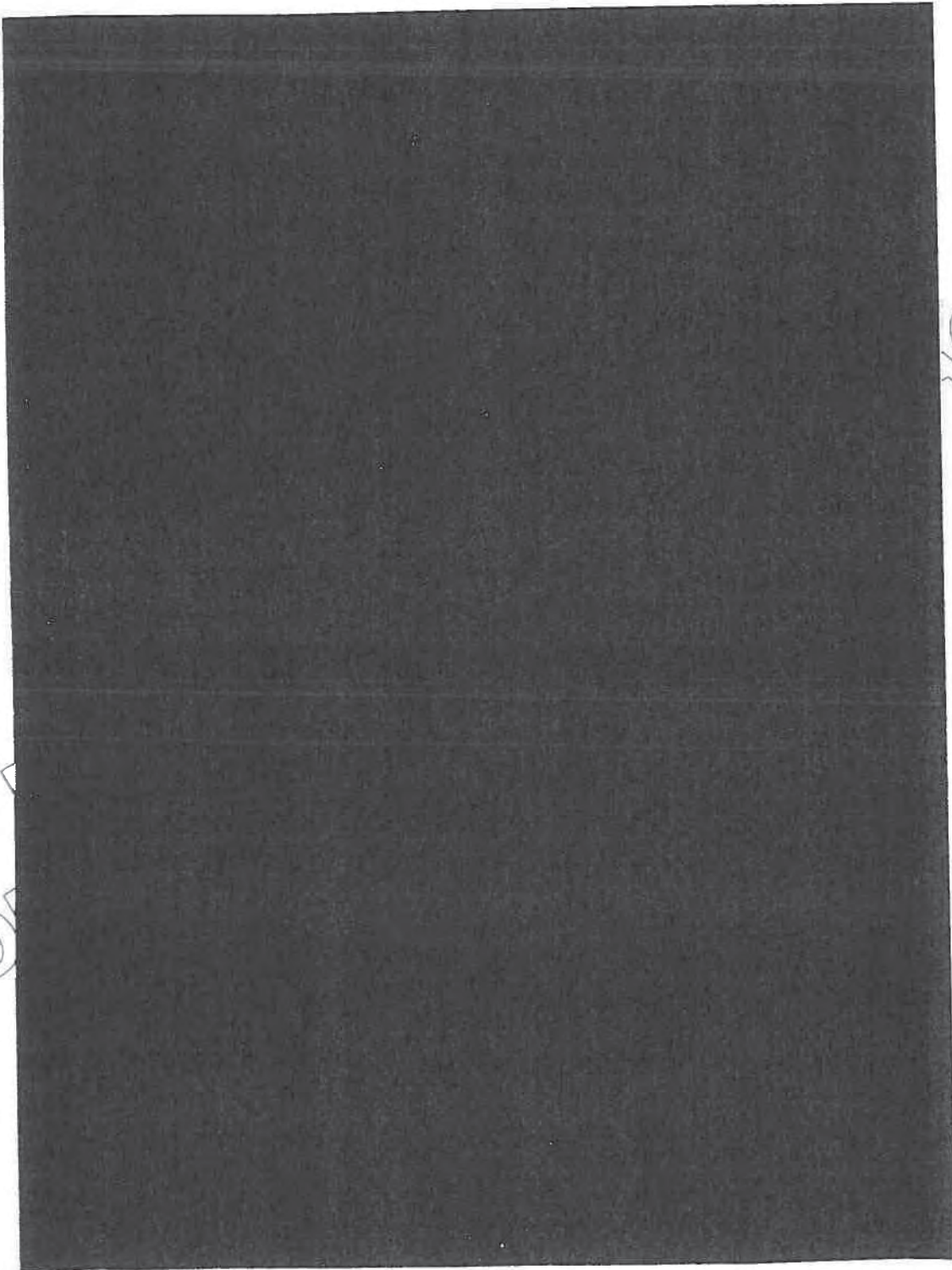
Subject: Foreign Trusts Q & A

Please find attached requested Q & A notes for the Minister of Revenue for his meeting with representatives of the foreign trusts industry on 18 December 2014.

[redacted]  
Senior Policy Analyst

Andrea Black  
Principal Advisor  
[redacted]

Q&A for meeting with representatives of foreign trusts industry on 18 December 2014



From: [REDACTED]  
 Sent: Monday, 16 February 2015 17:51  
 To: [REDACTED]@parliament.govt.nz  
 Cc: Emma Grigg; Struan Little; Peter Frawley; Carmel Peters; Marie Pallot; Mike Nutsford; Geoff Leggett; [REDACTED]  
 Subject: meeting with OliverShaw  
 Attachments: MOR agenda Feb 15 pdf; OliverShaw speaking notes 19 Feb 2015.docx

Hi [REDACTED]

Please see attached a table covering the issues OliverShaw has identified for discussion. Emma may have a few small changes and she will discuss these with you tomorrow.

Cheers  
 Jess

[REDACTED] Senior Policy Analyst, Policy and Strategy, Inland Revenue

E. [REDACTED]

From: [REDACTED]@parliament.govt.nz  
 Sent: Tuesday, 10 February 2015 11:37 a.m.  
 To: Emma Grigg  
 Cc: Struan Little  
 Subject: meeting with OliverShaw

Hi Emma

The Minister is meeting with OliverShaw next Thursday 19 February. Attached is a list of agenda items they would like to raise with the Minister. Can you please prepare a briefing table which covers the issues outlined in the agenda?

Can we please have something over by next Tuesday morning at the latest?

many thanks, [REDACTED]

From: [REDACTED]@olivershaw.co.nz  
 Sent: Tuesday, February 10, 2015 11:26 AM  
 To: [REDACTED]  
 Cc: [REDACTED]  
 Subject: MOR agenda Feb 15

Attached is our proposed agenda for next Thursday's meeting

Kind regards



[REDACTED]  
Olivershaw Limited

Web: [www.olivershaw.co.nz](http://www.olivershaw.co.nz)

Email: [REDACTED]

Level 1, Aviation House, 12 Johnston Street, Wellington

PO Box 30-504, Lower Hutt 5040, NEW ZEALAND

Phone: [REDACTED]



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**OLIVERSHAW LTD**  
TAX SPECIALISTS

Olivershaw Limited  
2 James Street  
WELLINGTON  
PO Box 50 504  
Lower Hutt 51 400  
Phone 04 577 2700  
PO Box 50 504  
Lower Hutt 51 400

22 January 2015

Hon Todd McClay  
Minister of Revenue  
WELLINGTON 6140

By email:

Dear Minister

Agenda for meeting

We propose the following agenda for our meeting on 19 February.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- Foreign trust industry very pleased with their meeting with Minister. Any suggestions re way forward?

[REDACTED]

[REDACTED]

[REDACTED]

We look forward to our meeting to discuss the above.

Regards  
Olivershaw Limited

[REDACTED]

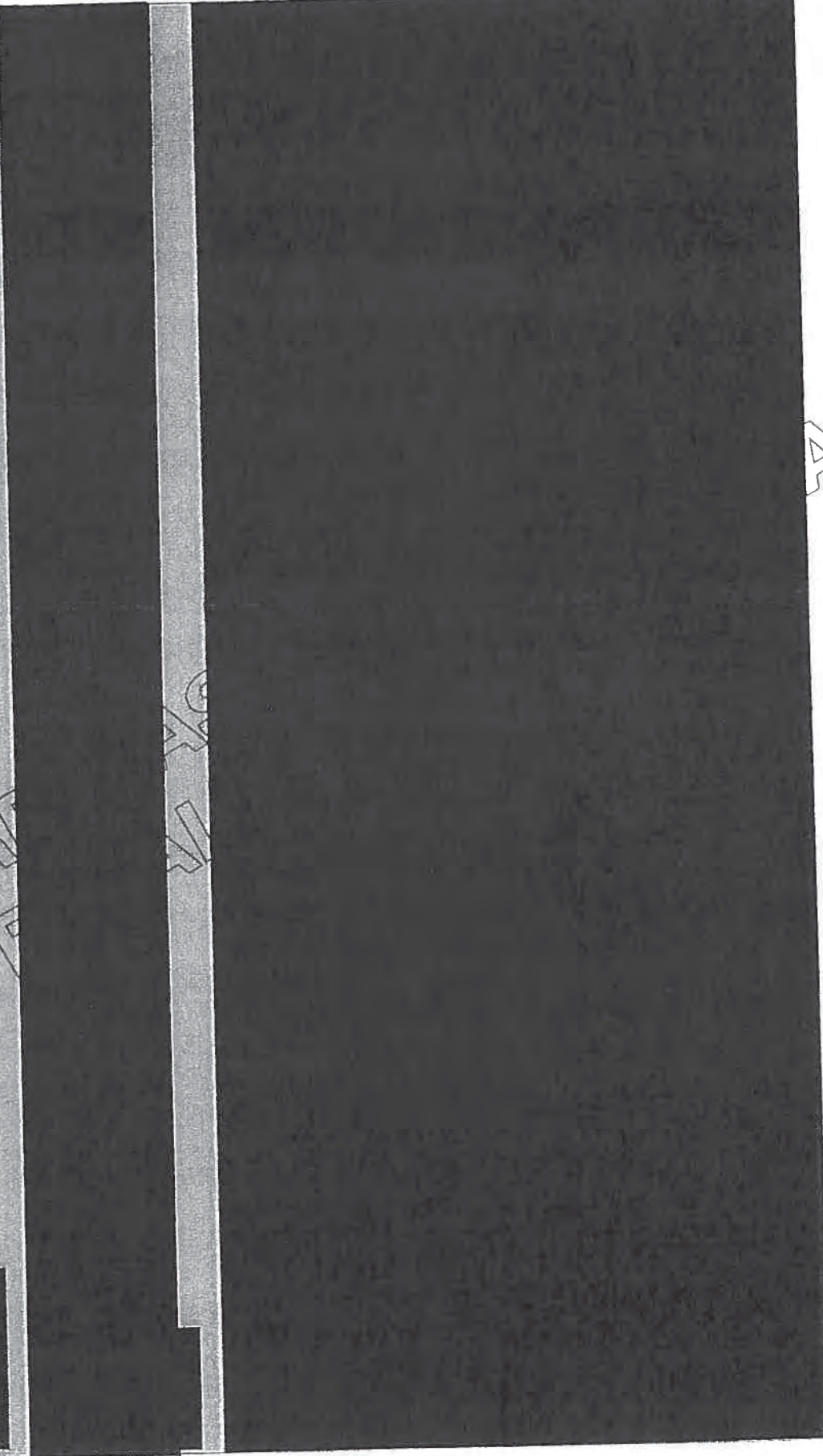
[REDACTED]

[REDACTED]

[REDACTED]



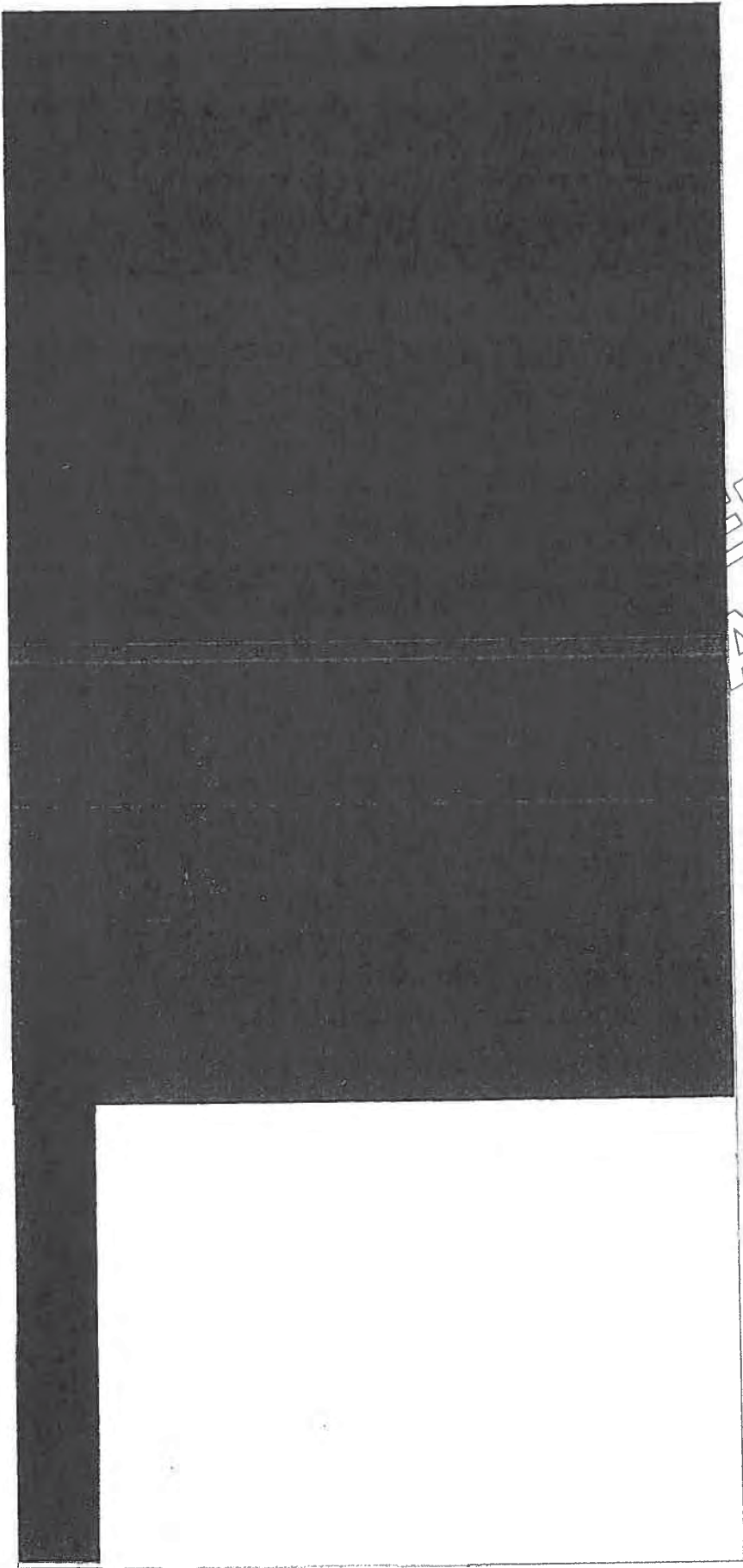
Speaking notes for discussions with OliverShaw – 19 February 2015

Topic	Answer
	

ACT

Foreign trust industry very pleased  
with their meeting with Minister.  
Any suggestions re way forward?

I understand the concerns of the foreign trust industry with any potential review. I have yet to have the opportunity to talk to officials about the merits, or otherwise, of a review. No decisions have yet been made.

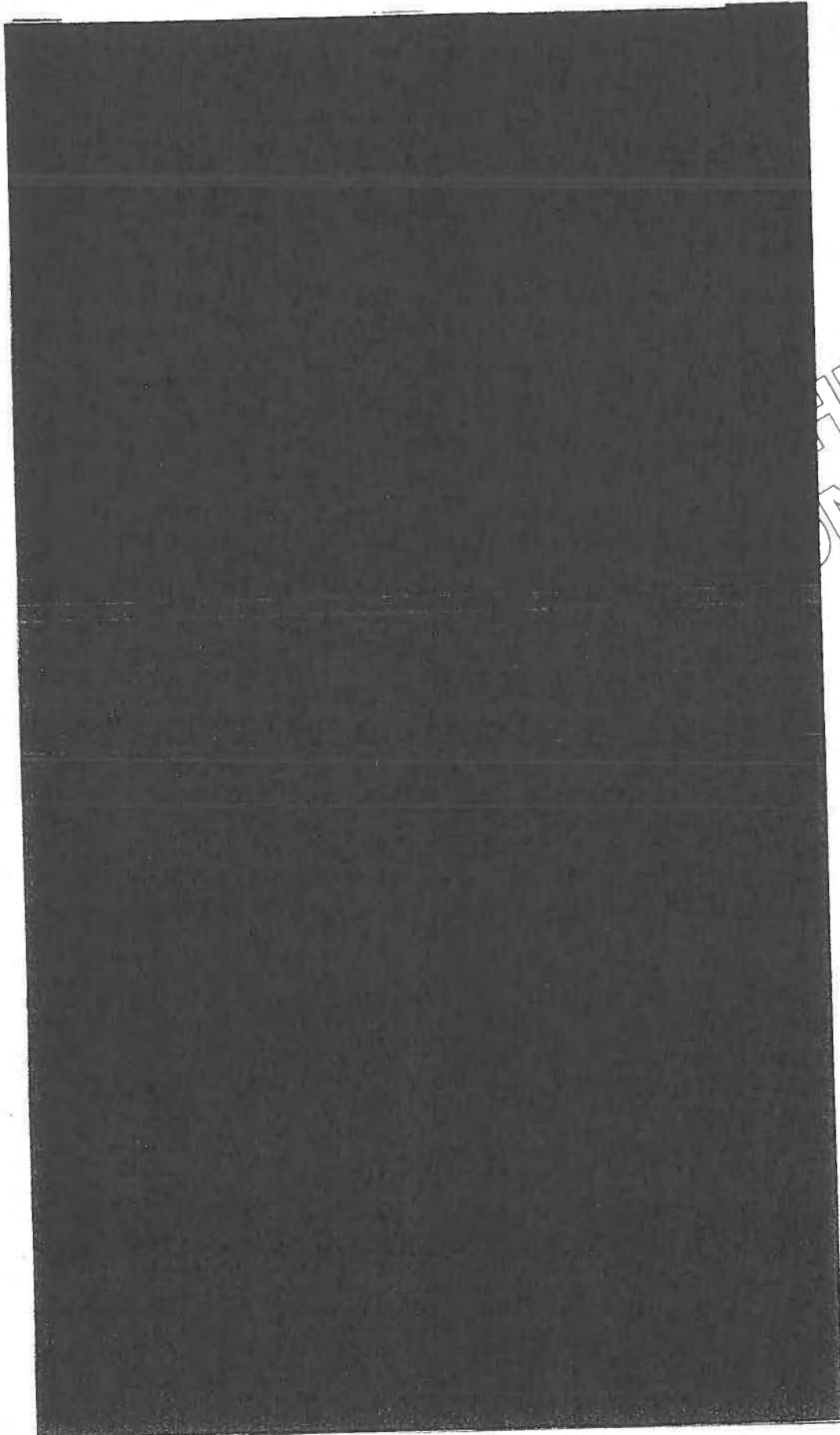


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Inland Revenue  
Te Tari Taake

## AGENDA

**TAX POLICY MEETING WITH MINISTER OF REVENUE  
HONOURABLE TODD MCCLAY**

**MINISTER'S OFFICE, 19<sup>TH</sup> FLOOR, BOWEN HOUSE**

**TUESDAY 24<sup>TH</sup> FEBRUARY  
9.00AM - 9.45AM**

### **Attendees from Inland Revenue**

Struan Little, Deputy Commissioner Policy and Strategy  
Emma Grigg, Policy Director

### **Attendees for specific items**

Carmel Peters, Policy Manager for Items 3 and 4

### **Items**



3.

Foreign Trusts



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**From:** Carmel Peters  
**Sent:** Wednesday, 18 March 2015 16:26  
**To:** Struan Little; Naomi Ferguson  
**Cc:** John Nash; [REDACTED]; Emma Grigg; David Carrigan; [REDACTED]; Matt Benge; [REDACTED]@parliament.govt.nz; Casey Plunket  
**Subject:** FW: Foreign trusts letter  
**Attachments:** Letter to Minister of Commerce and Consumer Affairs 180315.pdf

See below letter from [REDACTED] to Ministers Goldsmith and McClay – which may come up in a meeting with our Minister. I have clarified with [REDACTED] that my expectation is that we would be involved in officials' discussions – and that [REDACTED] would expect and be happy with that.

Cheers

Carmel

**From:** [REDACTED]  
**Sent:** Wednesday, 18 March 2015 11:40 a.m.  
**To:** [REDACTED]  
**Cc:** Carmel Peters  
**Subject:** Foreign trusts letter

Attached is the letter re foreign trusts as discussed previously. Sent to Goldsmith and McClay. As you are aware this letter was at the suggestion of McClay. Not sure if McClay has had the chance to discuss this with Goldsmith. Grateful if you can follow up so not lost in ministerial intrays. Finally the letter does raise the possibility of the group meeting with officials first to discuss regulatory regime – what changes are desirable. It seems to me a good idea that things get sorted out in broad terms in this way prior to any Ministerial meeting.

Happy to discuss

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 Olivershaw Limited  
 Web: [www.olivershaw.co.nz](http://www.olivershaw.co.nz)  
 Email: [REDACTED]  
 Level 1, Aviation House, 12 Johnston Street, Wellington  
 PO Box 20-504, Lower Hutt 5040, NEW ZEALAND  
 Phone: [REDACTED]



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# THE NZ TRUSTEE COMPANIES ASSOCIATION LIMITED

18 March 2015

Hon Paul Goldsmith  
Minister of Commerce and Consumer Affairs  
Parliament Buildings  
WELLINGTON

Cc: Hon Todd McClay, Minister of Revenue

Dear Minister

The NZ Trustee Companies Association Limited ("the Association") comprises New Zealand's leading managers of what are generally termed "foreign trusts". In general terms these foreign trusts are established under New Zealand law and managed in New Zealand. We are writing to you at the suggestion of the Minister of Revenue to request a meeting to discuss the future regulatory regime for our industry and to provide you with background as to our industry. We would be happy to meet with you either in Auckland or Wellington. We also suggest that it might be useful if, prior to such a meeting, you direct your officials to meet with us to discuss details of the appropriate regulatory framework.

## Background

We have attached to this letter a technical annex outlining the main tax and regulatory rules impacting on foreign trusts.

In broad terms, New Zealand's foreign trust rules allow foreigners to invest their money through a trust managed in New Zealand without New Zealand tax on income sourced offshore. This is non-residents investing offshore - the rule follows the principle that a country does not tax the foreign income of non-residents. Last year a report to Ministers by tax policy officials was publically released raising the possibility that this year the government might initiate a review of the foreign trust tax rules with a view to taxing such trusts on offshore income. This would be likely to close the New Zealand industry down - foreign investors can have their funds managed in many other countries that do not levy additional taxes on them, hence they would shift their funds to those countries.

The Association raised its concerns with Hon Todd McClay. Briefly, New Zealand has successfully established a foreign trust industry in New Zealand managing significant international wealth. This is a highly internationally competitive industry where, over many years, New Zealand has established itself as a highly reputable and trusted location for international asset management. New Zealand's major competitor jurisdictions include: USA, UK, Singapore and Hong Kong and Switzerland.

## The New Zealand Foreign Trust Industry

The New Zealand industry is built around long-standing relationships, stability and trust - we are a safe haven, not a tax haven, for the management of high net wealth family assets. It is a necessity for the industry that New Zealand does not impose tax on this income merely because families have chosen to locate their funds management here. The industry has not developed over the past 30 years based on being a vehicle for tax evasion or avoidance, but it is a pre-requisite of the industry being here that New Zealand does not impose any additional tax as a result.

The fact that New Zealand is not a base for tax evasion or avoidance is clear from the in-depth review of our foreign trust rules carried out by the OECD in November 2013 – the Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Review of New Zealand. The Review outlined the various rules relating to our foreign trusts and did not find them lacking in any specific way or inconsistent with our international obligations. The Review did make some recommendations relating to New Zealand (such as the need to retain records for liquidated companies) but no recommendation was specifically directed at our foreign trusts rules. The USA and other well-regarded jurisdictions have similar rules.

The Association met with Hon Todd McClay in Auckland on 16 December 2014. The Minister was sympathetic to the industry's viewpoint and assured us that, contrary to some media comment, the government had no intention of closing the industry down and he was not persuaded that there is a need for a general and public review of the foreign trust tax rules and in particular the current exemption for overseas income earned by foreign trusts on behalf of non-residents.

At the meeting the Association noted that the industry is keen to work with officials on improvements to the regulatory regime and how we can ensure that New Zealand continues to meet the highest standards in terms of our international commitments in these areas. The Minister suggested that we raise this with you and we wrote to him in January this year stating that we would do so.

#### Regulatory Rules

An outline of the current regulatory requirements, as they specifically apply to foreign trusts, is set out in the annex to this paper.

Broadly, the current rules require a foreign trust to:

- Hold and provide to Inland Revenue relevant financial and other records upon valid information request under DTA/TIEA/mutual assistance convention;
- Have an approved New Zealand person as a trustee or face a risk of tax on the trust's worldwide income for non-compliance of the trustee record keeping requirements.

On the face of it, as the OECD concluded, this meets international best practice requirements. However, we understand that Inland Revenue's concerns are that some trusts may be operating in New Zealand as foreign trusts without its knowledge and not meeting the above requirements. The only sanction is in effect a fine if detected plus tax on the worldwide income for non-compliance of the trustee record keeping requirements. The tax-free status of the trust is retained provided the requested information is eventually provided and even then by this stage the trust may have re-located to some tax jurisdiction outside New Zealand.

The Association has long held similar concerns. This is the reputational damage to the New Zealand industry as a whole if rogue elements operate through New Zealand utilising the benefits of our foreign trust rules but outside the professional code of conduct required by those rules. If this occurred it could not only damage New Zealand's international ethical reputation but it could also severely damage the trust element which is at the heart of the industry's international competitive advantage. In economic terms non-complying operators could impose significant social costs on New Zealand and inflict damage on an internationally competitive business located here. It is well recognised that such economic externalities justify some government intervention.

It would seem premature at this stage to propose to you the full details of a more appropriate regulatory regime. That said, the main aspects of a set of rules that would better meet both Inland Revenue's and the industry concerns would seem to be along the following lines:

- There should be a register of foreign trusts operating in New Zealand. This register will record the name of the trustee, its address, and place where trust documents may be inspected.
- The registrar could be Inland Revenue, or the Companies Office.
- A requirement of registration should be that one trustee is licensed to be a trustee of foreign trusts. The licensing requirements could be along the lines of the current requirements for a "qualifying resident foreign trustee" although it may be appropriate for the licensor to refuse to license a particular person whose professional association otherwise might entitle them to be licensed. It should be mandatory that there should be a qualifying resident trustee for every foreign trust. This means that at least one trustee, or director of a trustee company, must be professionally qualified.
- If the trustees of a trust hold the trust out to be a registered foreign trust when it is not so registered or when it is not qualified to be registered the trust should be subject to a monetary fine. This fine could be incremental for repeated and substantial offending. This type of regulation is probably best handled by the Registrar of Companies.
- If the trustees of a trust hold the trust out to be a registered foreign trust knowing that it is not so registered or knowing that it is not qualified to be registered, the trust should lose its tax exemption on foreign income from the time the trustees falsely held the trust out to be a registered foreign trust. The inclusion of the knowledge requirement is to prevent clerical or technical errors resulting in the imposition of significant and disproportional tax liabilities, with a time for rectification for inadvertent non-registration.
- Given the personal and family confidences involved in many foreign trusts, information as to the trust deeds, settlor(s) and beneficiary(ies) needs to be kept confidential unless there is a need to disclose to an appropriate authority as is now the case. Failure to keep proper records will result in a fine with disqualification for a serious breach.
- If there is a need to offset government costs of managing these rules a modest annual registration fee could be charged. We would suggest \$350 per year, per trust.

Rules along these lines are modelled on those of some other respected jurisdictions, such as the USA, in particular the States of New York, New Hampshire, Washington, Wisconsin, South Dakota and Delaware.

#### Conclusion

As noted at the outset, and as suggested by Hon Todd McClay, we would like the opportunity to meet with you and discuss the nature of our business and the need for regulatory reform in this area. If you are agreeable to that please advise and we shall make arrangements for a meeting through your office.

You might also find it useful if we also discuss these issues in more detail with your officials. We would appreciate your views on that.

We look forward to your response

Yours faithfully

A black rectangular redaction box covering the signature of the sender.

on behalf of  
THE NZ TRUSTEE COMPANIES ASSOCIATION LIMITED

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## Technical Annex – Tax Treatment of Foreign Trusts

A foreign trust in broad terms is a trust established under New Zealand law that, in general, has no New Zealand resident settlor but has a resident trustee and is managed from New Zealand. In most cases such trusts have no material New Zealand sourced income but has assets offshore and derives foreign-sourced income. Such a trust falls within the technical definition of "foreign trust" in section HC 11 of the Income Tax Act 2007 ("the Income Tax Act") being a trust in relation to any distribution that has no New Zealand resident settlor from the date of settlement to the date of the distribution.

Under the Income Tax Act and the Tax Administration Act 1994 ("the Tax Administration Act") a trust is taxed separately from the trustee as an individual or entity – definition of "trustee" in section YA 1 of the Income Tax Act (a trustee means the trustee only in the capacity of trustee of the trust) and section 59 of the Tax Administration Act which states that a trustee's income tax return "as being separate and distinct from any return made by the trustee in respect of another trust or in the trustee's own right".

Any New Zealand sourced income of a foreign trust is subject to New Zealand income tax – section HC 24 of the Income Tax Act.

A New Zealand trustee is not, however, taxable on foreign sourced income provided (with minor technical exceptions) no settlor of the trust is resident of New Zealand in the year the foreign income is derived. Income Tax Act HC 26(1).

A foreign trust that has no resident settlor, a New Zealand resident trustee and no New Zealand sourced income is thus in effect outside the New Zealand tax system in term of liability to tax. In the ordinary course this would mean such a trustee has no obligations to the New Zealand Inland Revenue in a similar manner to a person living offshore with only offshore income.

However, New Zealand tax legislation specifically imposes a number of tax obligations on foreign trustees for the explicit objective of ensuring that New Zealand can meet its international obligations to exchange relevant tax information with overseas tax authorities.

Under the general rules in section 22 of the Tax Administration Act a resident foreign trustee of a foreign trust must:

- "keep sufficient records" of the "financial position" and accounts of the trust, including assets and liabilities, receipts and expenditure and accounting documentation;
- "documents that evidence the creation and constitution" of the trust – normally the trust deed;
- Particulars of settlements and distributions; and
- Names and addresses of settlors and recipients of distributions (if known).

Under the more specific provisions of section 59B of the Tax Administration Act on appointment a trustee of a foreign trust must provide to IRD the identifying particulars and their name and contact details. In addition, under section HC 26(3) of the Income Tax Act if a foreign trust has no "qualifying resident foreign trustee" for an income year and financial or other information requested by IRD are not provided and the trustee is convicted of an offence for this, then the foreign trust is taxable on its foreign income. If the requested information is then provided, the tax exemption on foreign income is re-instated. A "qualifying resident foreign trustee" is defined in section 3(1) of the Tax Administration Act as a natural person who is a member of an approved organisation or an entity (such



as a company, that has such a person as a director or who holds a similar position. An approved organisation is defined in the same section in essence as an organisation with a professional code of conduct that is approved by the Commissioner.

Approved organisations are Chartered Accountants Australia and New Zealand, the New Zealand Law Society and the Society of Trust and Estate Practitioners (New Zealand Branch).  
As the Commentary on the Bill introducing these measures noted (page 85):

"The intention is not to tax foreign trusts on their worldwide income but, rather to provide the necessary incentive for New Zealand-resident trustees to become qualifying, and keep and provide the required financial records. If the worldwide income of a foreign trust becomes liable to tax in New Zealand, the New Zealand-resident trustee will be required to file an income tax return on that basis. The tax return will provide Inland Revenue with information that it can provide to New Zealand's double tax agreement partners, if requested."

An intentional breach of the above information requirements is likely to be an offence under section 143A of the Tax Administration Act and is liable to a fine of up to \$50,000 and imprisonment for up to 5 years.

In addition to the above tax-specific information requirements, trustees of foreign trusts operating within the ambit of New Zealand jurisdiction are subject to New Zealand's general commercial regulations and in particular New Zealand's Anti-Money Laundering and Countering Financing of Terrorism Act 2009. In broad terms this requires reporting entities to:

- Verify the identity of those for whom they hold funds or transact with. For a trust this requires verification of the settlor, trustee, controllers and beneficial owners;
- Undertake risk assessments;
- Report transactions that the person has reasonable grounds to suspect may be relevant to the prosecution of serious offence (which includes knowingly evading tax or providing false information to IRD); and
- Generally maintain records to enable transactions to be readily reconstructed at any time.

The Anti-Money Laundering legislation, where it applies to a foreign trust, are likely to make it more probable that trustees will know, and thus be required to report, (under the Tax Administration Act) the names and addresses of settlors and recipients of distributions.

OECD in its 2013 Peer Review of New Zealand's compliance with international standards for transparency and exchange of information for tax purposes reviewed the features of New Zealand's foreign trust rules and concluded that our rules in this area met all international requirements. No recommendations were made as to any need to alter those rules whereas recommendations were made to, for example, tighten New Zealand's rules around the requirements to be company directors and to register a company.

[REDACTED]

---

**From:** Carmel Peters  
**Sent:** Monday, 11 May 2015 15:46  
**To:** [REDACTED]@parliament.govt.nz  
**Cc:** Casey Plunket; [REDACTED]  
**Subject:** letter

Hi [REDACTED]

See added sentence below as discussed.

Dear [REDACTED]

I am writing to you in relation to the issue of foreign trusts.

When we met on 16 December 2014, I indicated that the Government had no intention of conducting a general and public review of the foreign trust tax rules. I confirm that this is still the Government's intention. This issue is not on the current tax policy work programme, and my understanding is that officials are not actively working on this matter.

At our meeting, I had also suggested that you meet with Hon Paul Goldsmith, Minister of Commerce and Consumer Affairs, to discuss the future regulatory regime of the industry. You wrote to Hon Goldsmith on 18 March 2015, and I have since had the opportunity to discuss this matter with him. We have both agreed that, owing to wider Government priorities, we will not be considering regulatory reform of your industry at this stage. I trust that this provides you and your industry with the certainty needed to continue to do business in New Zealand.

For the record, however, I note that the Government has an on-going responsibility to consider whether its regulatory settings are facilitating inappropriate behaviour in other jurisdictions. It is possible that, in the future, this responsibility will require us to review the regulatory requirements applying to different types of investment or business vehicles that can be established under New Zealand law.

Carmel Peters  
Policy Manager  
In and Revenue Department  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

W: taxpolicy.ird.govt.nz

[REDACTED]

---

**From:** Carmel Peters  
**Sent:** Thursday, 14 May 2015 11:00  
**To:** Casey Plunket  
**Subject:** FW: Letter to [REDACTED]  
**Attachments:** [REDACTED] 14052015.pdf

**From:** [REDACTED] <[REDACTED]@parliament.govt.nz>  
**Sent:** Thursday, 14 May 2015 10:56 a.m.  
**To:** Carmel Peters; [REDACTED]  
**Cc:** Emma Grigg; Struan Little  
**Subject:** FW: Letter to [REDACTED]

FYI.

Letter on foreign trusts has just been sent out.

[REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, May 14, 2015 10:55 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]@olivershaw.co.nz  
**Subject:** Letter to [REDACTED]

Hi Karen

Please find attached letter to [REDACTED] from Hon Todd McClay, Minister of Revenue.

Hard copy is in the post.

Kind regards

[REDACTED] Office of Hon Todd McClay  
Minister of Revenue | Minister for State Owned Enterprises  
Associate Minister of Foreign Affairs | Associate Minister of Trade | MP for Rotorua  
Phone: [REDACTED]





## Office of Hon Todd McClay

MP for Rotorua

Minister of Revenue

Minister for State Owned Enterprises

Associate Minister of Foreign Affairs

Associate Minister of Trade

14 MAY 2015

Mr [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Mr [REDACTED]

I am writing to you in relation to the issue of foreign trusts.

When we met on 16 December 2014, I indicated that the Government had no intention of conducting a general and public review of the foreign trust tax rules. I confirm that this is still the Government's intention. This issue is not on the current tax policy work programme, and my understanding is that officials are not actively working on this matter.

At our meeting, I had also suggested that you meet with Hon Paul Goldsmith, Minister of Commerce and Consumer Affairs, to discuss the future regulatory regime of the industry. You wrote to Hon Goldsmith on 18 March 2015, and I have since had the opportunity to discuss this matter with him. We have both agreed that, owing to wider Government priorities, we will not be considering regulatory reform of your industry at this stage.

That said, however, the Government has an on-going responsibility to consider whether its regulatory settings are facilitating inappropriate behaviour in other jurisdictions. It is possible that, in the future, this responsibility may require us to review the regulatory requirements applying to different types of investment or business vehicles that can be established under New Zealand law.

I trust that this provides you and your industry with the certainty needed to continue to do business in New Zealand.

Best wishes.

Yours sincerely

Hon Todd McClay  
Minister of Revenue

[REDACTED]

---

**From:** Carmel Peters  
**Sent:** Tuesday, 19 May 2015 12:04  
**To:** [REDACTED] (@parliament.govt.nz)  
**Cc:** Emma Grigg; Casey Plunket  
**Subject:** Foreign trusts.msg  
**Attachments:** @

**This message has been archived. [View the original item](#)**

Are you okay with this going out from me to CTG, CAANZ etc

**Attachments:**  
[Foreign trusts.msg.docx](#)

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This email is to let you know that our Minister has decided that a review of foreign trusts will not be included on the current tax policy work programme owing to wider government priorities.

That said, however, the Government has an on-going responsibility to consider whether its regulatory settings are facilitating inappropriate behaviour in other jurisdictions. It is possible that, in the future, this responsibility may require us to review the regulatory requirements applying to different types of investment or business vehicles that can be established under New Zealand law.

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[REDACTED]

**From:** Carmel Peters  
**Sent:** Tuesday, 19 May 2015 12:32  
**To:** [REDACTED]  
**Cc:** Emma Grigg; [REDACTED] Struan  
Little; Casey Plunket; David Carrigan; Matt Bengel; [REDACTED]  
[REDACTED]@parliament.govt.nz; [REDACTED]@parliament.govt.nz; John Nash  
**Subject:** Foreign Trusts

**This message has been archived. [View the original item](#)**

Greetings all

This email is to let you know (in your various stakeholder representative capacities) that our Minister has decided that a review of foreign trusts will not be included on the current tax policy work programme owing to wider government priorities.

That said, however, the Government has an on-going responsibility to consider whether its regulatory settings are facilitating inappropriate behaviour in other jurisdictions. It is possible that, in the future, this responsibility may require us to review the regulatory requirements applying to different types of investment or business vehicles that can be established under New Zealand law.

Best wishes

Carmel

Carmel Peters

Policy Manager

Inland Revenue Department

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

W: [taxpolicy.ird.govt.nz](mailto:taxpolicy.ird.govt.nz)

### Weekly status updates

The following information was included in my weekly updates from Inland Revenue between 22 December 2014 and 8 May 2015. These updates are referred to in an email dated 11 May 2015 (item 11).

**Date of update:** 22 December 2014

<b>Foreign Trusts</b>	<b>Officials to follow up with the MOR after his meeting held with private sector foreign trust representatives.</b>
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**Date of update:** 23 January 2015

<b>Foreign Trusts</b>	<b>Officials to meet with you to discuss the outcome of your meeting with private sector foreign trust representatives.</b>
-----------------------	---

**Date of update:** 30 January 2015, 5 February 2015, 13 February 2015, 20 February 2015,

<b>Foreign Trusts</b>	<b>Officials to meet with you to discuss the outcome of your meeting with private sector foreign trust representatives, and to provide a draft letter to the Minister of Commerce for your consideration.</b>
-----------------------	---

**Date of update:** 27 February 2015, 6 March 2015,

<b>Foreign Trusts</b>	<b>Officials to provide a draft letter to the Minister of Commerce for your consideration.</b>
-----------------------	--

**Date of update:** 13 March 2015, 20 March 2015, 27 March 2015

<b>Foreign Trusts</b>	<b>Officials understand that the foreign trust industry intends to write to the Minister of Commerce about regulation.</b>
-----------------------	--

**Date of update:** 2 April 2015, 10 April 2015, 17 April 2015, 24 April 2015, 1 May 2015, 8 May 2015,

<b>Foreign Trusts</b>	<b>Officials understand that the foreign trust industry has written to the Minister of Commerce about regulation.</b>
-----------------------	---

---

**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 12:36 p.m.  
**To:** 'Samantha Aldridge'; Anu Anand; John Nash; Emma Grigg; s9(2)(g)(i) ^IRD:  
David Carrigan; Peter Frawley; PAS Policy Team - Carmel  
**Subject:** RE: PQs - s9(2)(a) - Due ministers office : 14/04/2016  
**Categories:** NZ First OIA

[IN-CONFIDENCE]

As far as I know, any person with the power to own property (ie, someone who is not a minor) may be a trustee. As a matter of practice, most professional trustees are lawyers, but I don't think that is a legal requirement.

---

**From:** Samantha Aldridge [mailto:Samantha.Aldridge@ird.govt.nz]  
**Sent:** Friday, 15 April 2016 12:26 p.m.  
**To:** Anu Anand <Anu.Anand@ird.govt.nz>; John Nash <John.Nash@ird.govt.nz>; Emma Grigg <Emma.Grigg@ird.govt.nz>; s9(2)(g)(i) ^IRD: David Carrigan <David.carrigan@ird.govt.nz>; Peter Frawley <Peter.Frawley@ird.govt.nz>; Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>; PAS Policy Team - Carmel <PASPolicyTeam-Carmel@ird.govt.nz>  
**Subject:** RE: PQs - s9(2)(a) - Due ministers office : 14/04/2016  
**Importance:** High

Thinking about this – there are no professional accreditation etc requirements for trustees of foreign trusts that I am aware of under tax legislation. I think that would make sense as you don't elect into the foreign trust tax rules.

But I wonder if there are some requirements that trustees have to meet under general trust law or company law? Presumably MBIE could advise on this. Should the PQ be transferred to them?

---

**From:** Anu Anand  
**Sent:** Friday, 15 April 2016 12:09 p.m.  
**To:** s9(2)(g)(i)  
**Cc:** Samantha Aldridge; s9(2)(g)(i)  
**Subject:** RE: PQs - s9(2)(a) - Due ministers office : 14/04/2016  
**Importance:** High

Hi s9(2)(g)(i)

I am sorry I definitely don't know the answer to this – perhaps Sam/Carmel?

Cheers,  
Anu

---

**From:** s9(2)(g)(i)  
**Sent:** Friday, 15 April 2016 11:37 a.m.  
**To:** Anu Anand  
**Cc:** Samantha Aldridge; s9(2)(g)(i)  
**Subject:** FW: PQs - s9(2)(a) Due ministers office : 14/04/2016  
**Importance:** High

Hi Anu,



Are you able to help us with the PQ below on professional accreditation needed to set up NZ foreign trusts?

Many thanks!

s9(2)(g)(i)

---

**From:** s9(2)(g)(i)

**Sent:** Friday, 15 April 2016 11:34 a.m.

**To:** s9(2)(g)(i)

**Cc:** Samantha Aldridge

**Subject:** RE: PQs - s9(2)(a) Due ministers office : 14/04/2016

Also, are you able to assist with preparing a response to this PQ?

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04651	What specific professional accreditation, registration, or other qualification, if any, is needed to set up and administer a New Zealand foreign trust for offshore clients?	Mid-day 13 April 2016	15 April 2016	
<b>REPLY:</b>				

---

**From:** s9(2)(g)(i)

**Sent:** Friday, 15 April 2016 10:00 a.m.

**To:** s9(2)(g)(i)

**Cc:** Samantha Aldridge

**Subject:** RE: PQs - s9(2)(a) Due ministers office : 14/04/2016

Yes that's right.

---

**From:** s9(2)(g)(i)

**Sent:** Friday, 15 April 2016 9:58 a.m.

**To:** s9(2)(g)(i)

**Cc:** Samantha Aldridge

**Subject:** RE: PQs - s9(2)(a) - Due ministers office : 14/04/2016

So, PE = permanent establishment?

---

**From:** s9(2)(g)(i)

**Sent:** Friday, 15 April 2016 9:55 a.m.

**To:** s9(2)(g)(i)

**Cc:** Samantha Aldridge

**Subject:** RE: PQs - s9(2)(a) Due ministers office : 14/04/2016

Hi s9(2)(g)(i)

Regarding PE status

The initiative is aimed at preventing taxpayers from artificially avoiding having a permanent establishment in a source country (if a taxpayer can avoid having a PE they won't be taxed on their business profits in that country).

Cheers

s9(2)(g)(i)

---

**From:** Samantha Aldridge  
**Sent:** Friday, 15 April 2016 9:51 a.m.  
**To:** s9(2)(g)(i)  
**Subject:** FW: PQs - s9(2)(a) - Due ministers office : 14/04/2016

---

**From:** s9(2)(g)(i)  
**Sent:** Friday, 15 April 2016 9:51 a.m.  
**To:** Samantha Aldridge  
**Cc:** Carmel Peters  
**Subject:** FW: PQs - s9(2)(a) - Due ministers office : 14/04/2016

Good morning,

Can you please confirm the meaning of 'PE status'?

Thanks,


s9(2)(g)(i)

---

**From:** Rachel Clarke [<mailto:Rachel.Clarke@parliament.govt.nz>]  
**Sent:** Friday, 15 April 2016 9:38 a.m.  
**To:** s9(2)(g)(i)  
**Subject:** RE: PQs - s9(2)(a) - Due ministers office : 14/04/2016

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04446	What are the 13 separate initiatives embarked upon by the Government to improve disclosure and comply with the OECD guidelines on the prevention of multinational tax avoidance?	Midday 12 April 2016	14 April 2016	

s9(2)(g)(i)



What is PE status?

---

**From:** s9(2)(g)(i)  
**Sent:** Friday, 15 April 2016 9:24 a.m.  
**To:** Rachel Clarke  
**Subject:** RE: PQs - s9(2)(a) - Due ministers office : 14/04/2016



Revised response as follows:

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04423	How many New Zealand foreign trusts, if any, have been found to be implicated in illegal activity here or overseas since 2000?			Anu Anand
s9(2)(g)(i)				

---

**From:** s9(2)(g)(i)  
**Sent:** Thursday, 14 April 2016 5:12 p.m.  
**To:** 'Rachel.Clarke@parliament.govt.nz'  
**Subject:** PQs -s9(2)(a) - Due ministers office : 14/04/2016

Hi Rachel,

Responses below – I'm just waiting to get formal signoff on these. However, these are our proposed responses.

Thanks,

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04412	Further to the answer to QWA 03508 (2016), is IRD able to determine what its employees are working on in any one year?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04414	Further to QWA 03510 (2016), why does the IRD not keep records of the precise dates of its communications with the Australian Tax Office (ATO) on foreign trusts?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04415	Further to QWA 03510 (2016), why does the IRD not keep records of the precise dates of its communications with the tax authorities of the United States, Canada, Japan and the United Kingdom?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
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04416	What reports, if any, has the Minister received on New Zealand foreign trusts, since January 1, 2009?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04417	What specific information do overseas tax officials need to know about New Zealand foreign trusts before they can receive information on them?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04418	Can an overseas tax department with a double tax agreement with New Zealand secure access to detailed information about a New Zealand foreign trust if they don't know the name of the foreign trust?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04419	Can an overseas tax department that we have a double tax agreement with secure access to detailed information about a New Zealand foreign trust if they only know the name of the beneficiary?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04420	Can an overseas tax department that we have a double tax agreement with secure access to detailed information about a New Zealand foreign trust if they only know the name of the settlor?	Midday 12 April 2016	14 April 2016	Anu Anand
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04421	What jurisdictions, if any, did IRD share information on foreign trusts suspected of avoiding tax with since 1 January 2009?	Midday 12 April 2016	14 April 2016	

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04422	What is the total value of assets, if any, held by New Zealand foreign trusts?	Midday 12 April 2016	14 April 2016	

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04423	How many New Zealand foreign trusts, if any, have been found to be implicated in illegal activity here or overseas since 2000?			

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04424	How many times, if any, has the Inland Revenue Department investigated foreign trusts in New Zealand since January 1, 2009?	Midday 12 April 2016	14 April 2016	

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04425	How many investigations, if any, has IRD mounted on behalf of overseas tax officials asking for information on New Zealand foreign trusts since January 1, 2009 broken down by the following country category: Australia, double tax agreement countries besides Australia, and other countries?	Midday 12 April 2016	14 April 2016	

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04426	How many requests have been made by overseas tax officials for information on New Zealand foreign trusts since 2000?	Midday 12 April 2016	14 April 2016	

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04427	How many, if any, New Zealand foreign trusts currently exist?	Midday	14 April 2016	

		12 April 2016		
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04428	How many, if any, New Zealand foreign trusts currently registered with IRD have a settlor resident in Australia?	Midday 12 April 2016	14 April 2016	
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
04446	What are the 13 separate initiatives embarked upon by the Government to improve disclosure and comply with the OECD guidelines on the prevention of multinational tax avoidance?	Midday 12 April 2016	14 April 2016	
s9(2)(g)(i)				

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**From:** Steve Mack [TSY]  
**Sent:** Thursday, 7 April 2016 2:07 p.m.  
**To:** 'Samantha Aldridge'  
**Subject:** RE: Foreign trusts OIA - s9(2)(a)

**Categories:** NZ First OIA

[IN-CONFIDENCE]

Thanks Sam.

What is the status of this? Is this informing MOR what the IRD reply will be? Can you let me know when IRD sends the response to s9(2)(a) And I assume the boxes in the attachments are where you are proposing redactions?

Thanks

Steve

---

**From:** Samantha Aldridge [mailto:Samantha.Aldridge@ird.govt.nz]  
**Sent:** Thursday, 7 April 2016 12:33 p.m.  
**To:** s9(2)(g)(i)@ird.govt.nz; ^IRD: s9(2)(g)(i)@ird.govt.nz; John Nash <John.Nash@ird.govt.nz>; ^IRD: Struan Little <Struan.little@ird.govt.nz>; Emma Grigg <Emma.Grigg@ird.govt.nz>; Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>; Carmel Peters <Carmel.Peters@ird.govt.nz>  
**Cc:** s9(2)(g)(i)@ird.govt.nz; PAS Policy Team - Carmel <PASPolicyTeam-Carmel@ird.govt.nz>  
**Subject:** Foreign trusts OIA -s9(2)(a)

Hi guys

Report attached FYI. s9(2)(g)(i) Thanks very much for all your hard work on getting this out - hugely appreciated!

Cheers  
Sam

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**From:** Melissa Siegel <Melissa.Siegel@ird.govt.nz>  
**Sent:** Monday, 4 April 2016 3:08 p.m.  
**To:** s9(2)(g)(i)  
**Subject:** Did you just get the one PQ from WP?

We got the BEPS one, but also some relating to foreign trusts.

Here are our recent BEPS responses:

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
03791	What advice, if any, has he received on the number of multinational companies IRD is concerned about paying too little tax since January 2013?	Midday 4 April 2016	6 April 2016	

s9(2)(g)(i)

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
03792	What changes to tax rules have been made to address "potential deficiencies in our own rules" identified by IRD in an August 2013 tax policy report entitled Taxation of multinationals?	Midday 4 April 2016	6 April 2016	

s9(2)(g)(i)

And another relevant one from the beginning of March:

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
01827	Why, after receiving advice on August 15, 2013 from IRD that recommended "initiatives to protect the New Zealand tax base from BEPS should be a key focus when developing the next 18-month tax policy work programme" has no new legislation in this area been introduced to Parliament 30 months later?	10am 08/03/2016	10/03/2016	

---

**From:** Maraina Hak <Maraina.Hak@parliament.govt.nz>  
**Sent:** Thursday, 7 April 2016 1:20 p.m.  
**To:** Carmel Peters; Paul Kilford  
**Cc:** PAS Policy Team - Carmel; Emma Grigg; Steve Mack [TSY]; John Nash; s9(2)(g)(i)  
**Subject:** RE: AEOI and foreign trusts  
**Categories:** NZ First OIA

thanks

---

**From:** Carmel Peters [mailto:Carmel.Peters@ird.govt.nz]  
**Sent:** Thursday, April 07, 2016 1:17 PM  
**To:** Maraina Hak; Paul Kilford  
**Cc:** PAS Policy Team - Carmel; Emma Grigg; Steve Mack; John Nash; s9(2)(g)(i)  
**Subject:** AEOI and foreign trusts

The Automatic Exchange of Information (AEOI) initiative will impose reporting obligations on NZ financial institutions. For AEOI purposes, the term 'financial institutions' is broadly defined, and will capture any trusts that meet the criteria of an 'investment entity'. In very simple terms, this means that any trust that derives over 50% of its income from holding financial assets, and which is **"professionally managed"** (anywhere) will fall under the AEOI reporting rules. If the trust that has a New Zealand resident trustee, it must report to the New Zealand tax authority (Inland Revenue) unless it reports in another jurisdiction. This also applies to foreign trusts (even though for NZ tax purposes we don't tax their income because the settlor is not NZ resident).

As a financial entity, a foreign trust will generally need to determine where its settlor(s), trustee(s), protector(s), beneficiary(ies) and any other person who has ultimate control are resident for tax purposes, and report that information to Inland Revenue, along with financial information such as the value of financial assets held, and any income derived from those financial assets. Inland Revenue will then automatically exchange that information to the applicable jurisdictions of residence.

In addition to the above, any bank or other financial institution that has account held by a foreign trust that is not subject to its own reporting obligations, will have to report information on that trust (including looking through to find the trust's controlling persons).

Carmel Peters  
Policy Manager  
Inland Revenue Department  
T: +64 4 8906139  
s9(2)(a)  
F: +64 4 9032413  
E: [carmel.peters@ird.govt.nz](mailto:carmel.peters@ird.govt.nz)  
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**From:** Peter Gunn <Peter.Gunn@crownlaw.govt.nz>  
**Sent:** Monday, 18 April 2016 12:02 p.m.  
**To:** Paul.Kilford@parliament.govt.nz  
**Cc:** Henry Clayton [TSY]; Adam Wood [TSY]; Suzy Morrissey [TSY]; Steve Mack [TSY];  
Jeremy Salmond [TSY]; Jessica Gorman  
**Subject:** FW: URGENT - Memo and draft Gazette notice

s9(2)(h)





s9(2)(h)



Kind regards

**Peter Gunn**

Crown Counsel/Team Manager Constitutional and Human Rights Team

**Crown Law *Te Tari Ture o te Karauna***

DDI: +64 4 494 5561

s9(2)(a)



[www.crownlaw.govt.nz](http://www.crownlaw.govt.nz)

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**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 17:50

**To:** Peter Gunn

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Suzy Morrissey [TSY]; 'Steve Mack [TSY]'; Jeremy Salmond [TSY]

**Subject:** RE: URGENT - Memo and draft Gazette notice

Peter

s9(2)(h)



Kind regards

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings. PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** Peter Gunn [<mailto:Peter.Gunn@crownlaw.govt.nz>]

**Sent:** Friday, 15 April 2016 3:05 p.m.

**To:** Dan Brown; Paul Kilford; 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Paul

My comments;

s9(2)(h)

Typo in memorandum (repetition “of either” in first line of third para under heading “Non-statutory Ministerial Inquiry”)

s9(2)(h)

Kind regards

**Peter Gunn**

Crown Counsel/Team Manager Constitutional and Human Rights Team

**Crown Law *Te Tari Ture o te Karauna***

DDI: +64 4 494 5561

M: s9(2)(a)

[www.crownlaw.govt.nz](http://www.crownlaw.govt.nz)

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**From:** Dan Brown [<mailto:Dan.Brown@dia.govt.nz>]

**Sent:** Friday, 15 April 2016 13:54

**To:** Paul Kilford; 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; Peter Gunn; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Paul – good work under pressure!

Following on from our phone call here is a couple of comments:

You 'll want to touch base with SSC's Cabinet Fees Framework team and/or the Office of the Minister of State Services about whether anything is needed re an exception to the Cabinet fees framework. Sometimes there are some formalities required such as a letter from the commissioning Minister to the State Services Minister re the payment of a higher rate.

Regarding admin arrangements it is sensible for Treasury and IRD to provide admin support to the Inquiry given you are the subject matter experts. You'll need to think of appropriate arrangement about protocols and "Chinese Walls" to ensure that the Inquiry Head is able to (and is seen to be able to) provide frank and independent advice to Ministers (that may potentially differ to the preferred departmental positions of Treasury and IRD).

Regards

**Daniel Brown** | Policy Manager, Safer Communities

**Department of Internal Affairs Te Tari Taiwhenua**

Direct Dial: 04 494 0688 | Mobile: s9(2)(a)

46 Waring Taylor St | PO Box 805, Wellington 6140, New Zealand | [www.dia.govt.nz](http://www.dia.govt.nz)

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**From:** Paul Kilford

**Sent:** Friday, 15 April 2016 1:27 p.m.

**To:** 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; Peter Gunn; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford; Dan Brown

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** URGENT - Memo and draft Gazette notice

Hi everyone

Hopefully you are all expected to hear from me! Attached for your collective review is:

- Memo from MoF to other delegated Ministers seeking agreement to the scope and terms of the review;
- Draft *Gazette* notice.

The content of the memo tries to buy time for a formal review of the notice, but if people can turn this around as quickly as possible that would be appreciated.

Please also note that the terms of reference have been redrafted into slightly more formal language than was used in the PR on Monday. I am running this revised language by Mr Shewan to ensure that we are not seen to be inadvertently narrowing the scope of the inquiry.

**To the IRD legal team,** s9(2)(h)

s9(2)(h)

**To DIA,** can you please confirm you are happy with the remuneration amounts and the Treasury/IRD secretariat wording.

I look forward to hearing from you. Ideally I will have a final version of these documents to email to MoF for his final approval by around **3pm**.

Apologies for the unreasonably deadline and thanks in advance  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
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**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 15 April 2016 7:07 p.m.  
**To:** Emma Grigg (emma.grigg@ird.govt.nz); Carmel Peters; Suzy Morrissey [TSY]; Steve Mack [TSY]  
**Subject:** Final memo  
**Attachments:** Memorandum - Trust review.docx

Attached is the final memo that MoF has sent to Ministers. There were changes right up until the end, but I think we've got it to the right place. Thank you all for your help during what has been a pretty busy day.

Hopefully we will get there on Monday or Tuesday of next week.

Have a good weekend  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings. PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**Memorandum to:**

Rt Hon John Key – Prime Minister  
Hon Chris Finlayson – Attorney-General  
Hon Michael Woodhouse – Minister of Revenue

**From**

Hon Bill English – Minister of Finance

***Background***

On 11 April 2016, Cabinet (CAB-16-MIN-0158):

1. agreed that that an independent review be undertaken of the disclosure rules covering foreign trusts registered in New Zealand and any related matters that may arise, and
2. noted that it is proposed that John Shewan be appointed to undertake the review.

This group of Ministers was authorised to finalise:

1. the terms of reference for an independent review of the foreign trust disclosure rules and any related matters that arise; and
2. the form of the review.

***Terms of reference for the review***

The proposed terms of reference for the review are set out in the draft *Gazette* notice attached as an appendix. The scope set out in that draft is a more formal variation of that contained in the media statement that Hon Woodhouse and I released on Monday 11 April. However, Mr Shewan has been consulted on the revision and has confirmed that he is comfortable the scope has not been altered.

Generally under the Inquiries Act 2013, all documents created by an inquiry or received in the course of the inquiry are official information for the purposes of the Official Information Act 1982. However, the Inquiries Act provides that some information obtained, or generated, by an inquiry may be excluded from the scope of the OIA. In this case, the additional confidentiality requirements in the terms of reference are important to assist Inland Revenue with balancing its statutory secrecy requirements with proper disclosure of all relevant information to Mr Shewan (including taxpayer specific information if necessary). By including these restrictions in the terms of reference, Mr Shewan is obliged by the Inquiries Act to make an order giving effect to them.

***Form of the review***

In this case I recommend the review take the form of a “government inquiry”, as defined in the Inquiries Act 2013. As with other statutory inquiries under the Act, a government inquiry has the power to obtain information from any person, order disclosure of evidence to a

person participating in the inquiry, take evidence on oath or affirmation, and issue a witness summons. Witnesses and counsel have the same immunities that they would have if appearing before a court. As mentioned above, some information obtained or generated by these inquiries may be excluded from the reach of the Official Information Act. The Act also confers immunity from liability on these inquiries, their members and officers (in the absence of bad faith).

I consider the scale of the inquiry in this case most appropriately matches that contemplated for a government inquiry. The matter is of public interest, but relatively small and one where a quick and authoritative answer from an independent inquiry is desirable. A statutory process is nevertheless preferable because:

1. although Inland Revenue has undertaken to cooperate fully with the inquiry, it cannot be guaranteed that Mr Shewan will not need statutory powers to obtain evidence;
2. it will still provide Mr Shewan with statutory immunity; and
3. it will provide Inland Revenue with greater comfort that it can release all relevant information to Mr Shewan (assuming the restrictions in “administrative and procedural matters” section of the draft *Gazette* notice are agreed to).

As mentioned above, a draft *Gazette* notice is attached as an appendix for your consideration and agreement. This notice is a requirement of a government inquiry. Please note the draft has yet to be reviewed by Crown Law, so I recommend that I be authorised to:

1. make any changes recommended by a Crown Law review; and
2. publish the notice once finalised, in a special edition of the *Gazette* if necessary.

I also recommend that the following administrative matters be agreed to:

1. Mr Shewan be remunerated \$1,500 (plus GST) per day for the review, plus actual and reasonable travel costs - subject to the approval of Hon Bennett, Minister of State Services. It is anticipated he will need to travel within New Zealand to meet with relevant parties;
2. This remuneration be paid by Treasury;
3. Inland Revenue provide a liaison person to assist Mr Shewan in his dealings with the Department and Treasury provide any other secretariat support he considers necessary;
4. The Minister of Revenue and I sign a formal letter of appointment to Mr Shewan to finalise these terms and any other sundry matters.

I suggest that the Minister of Revenue and I take Mr Shewan’s completed report to Cabinet for discussion in July.



## Recommendations

I recommend that you:

1. **Agree** to the terms of reference set out in draft *Gazette* notice attached as an appendix;

Agreed / Not agreed	Agreed / Not agreed	Agreed / Not agreed
Rt Hon John Key Prime Minister	Hon Chris Finlayson Attorney-General	Hon Michael Woodhouse Minister of Revenue

2. **Agree** that the review be a government inquiry for the purposes of the Inquiries Act 2013:

Agreed / Not agreed	Agreed / Not agreed	Agreed / Not agreed
Rt Hon John Key Prime Minister	Hon Chris Finlayson Attorney-General	Hon Michael Woodhouse Minister of Revenue

3. **Agree** that I be authorised to:
  - a. make any changes to the *Gazette* notice attached as an appendix recommended by a Crown Law review; and
  - b. publish the notice once finalised, in a special edition of the *Gazette* if necessary.

Agreed / Not agreed	Agreed / Not agreed	Agreed / Not agreed
Rt Hon John Key Prime Minister	Hon Chris Finlayson Attorney-General	Hon Michael Woodhouse Minister of Revenue

4. **Agree** to the following administrative matters:

- a. Mr Shewan be remunerated \$1,500 (plus GST) per day for the review, plus actual and reasonable travel costs, or another reasonable amount agreed to by Hon Bennett;
- b. This remuneration be paid by Treasury;
- c. Inland Revenue provide a liaison person to assist Mr Shewan in his dealings with the Department and Treasury provide any other secretariat support he considers necessary;
- d. The Minister of Revenue and I sign a formal letter of appointment to Mr Shewan to finalise these terms and any other sundry matters;

Agreed / Not agreed	Agreed / Not agreed	Agreed / Not agreed
Rt Hon John Key Prime Minister	Hon Chris Finlayson Attorney-General	Hon Michael Woodhouse Minister of Revenue

5. **Note** that the Minister of Revenue and I will take Mr Shewan's completed report to Cabinet for discussion in July.

Noted	Noted	Noted
Rt Hon John Key Prime Minister	Hon Chris Finlayson Attorney-General	Hon Michael Woodhouse Minister of Revenue

Hon Bill English  
Minister of Finance

## Appendix

### **ESTABLISHMENT OF THE GOVERNMENT INQUIRY INTO FOREIGN TRUST DISCLOSURE RULES**

Pursuant to section 6(3) of the Inquiries Act 2013, The Honourable Simon William English, Minister of Finance, and The Honourable Michael Woodhouse, Minister of Revenue, hereby establish the Government Inquiry into Foreign Trust Disclosure Rules (“**Inquiry**”).

#### **Background**

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, in its combined Phase 1 and Phase 2 Peer Review Report of 2013, rated New Zealand “compliant” – the highest possible ranking.

As a result of the recent release of documents known as the ‘Panama Papers’, concerns have been raised about rules covering foreign trusts registered in New Zealand.

Cabinet has decided to initiate a review of New Zealand’s disclosure rules relating to foreign trusts registered in New Zealand to ensure New Zealand’s reputation is maintained.

#### **Membership**

Mr John Shewan is appointed to and constitutes the Inquiry.

#### **Terms of Reference**

The Inquiry will inquire into, report upon, and make any recommendations it considers appropriate relating to:

- (a) New Zealand's existing foreign trust disclosure rules in the following areas:
  - (i) record-keeping requirements, including records required to be provided to the New Zealand government;
  - (ii) enforcement of the rules;
  - (iii) exchange of information with foreign jurisdictions; and
  - (iv) practices for complying with the rules;
- (b) whether the existing foreign trust disclosure rules and the enforcement of those rules are sufficient to ensure New Zealand’s reputation is maintained, when considered alongside New Zealand’s:
  - (i) commitment to the OECD action plan on base erosion and profit shifting (BEPS);
  - (ii) commitment to the Convention on Mutual Administrative Assistance in Tax Matters;
  - (iii) commitment to implementing the global standard for the automatic exchange of information (AEOI);
  - (iv) existing and planned bilateral tax treaty network (including tax information exchange agreements);

- (v) anti-money laundering and countering financing of terrorism laws; and
- (vi) other related regimes; and
- (c) options for enhancements to New Zealand's foreign trust disclosure rules and enforcement of those rules, including any practical improvements that could be made or other actions that could be taken.

In these terms of reference:

- **foreign trust** has the meaning given to that term by the Income Tax Act 2007; and
- **foreign trust disclosure rules** means:
  - any laws of New Zealand requiring trustees of a foreign trust, or their agents or advisors, to provide information to any New Zealand government agency, and includes (without limitation):
    - laws for the enforcement of those requirements; and
    - the reporting and disclosure obligations of a resident foreign trustee (as defined in the Tax Administration Act 1994) of a foreign trust; and
  - the New Zealand government's obligations to provide information it holds about foreign trusts to tax authorities from other jurisdictions.

s9(2)(h)

## **Reporting**

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**.

Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

## **Consideration of Evidence**

The Inquiry may begin considering evidence on and from [DATE OF GAZETTE PUBLICATION].

## **Relevant Department**

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this ... day of April 2016.

HON SIMON WILLIAM ENGLISH, MINISTER OF FINANCE

HON MICHAEL WOODHOUSE, MINISTER OF REVENUE

---

**From:** Peter Gunn <Peter.Gunn@crownlaw.govt.nz>  
**Sent:** Monday, 18 April 2016 4:07 p.m.  
**To:** Paul Kilford; Henry Clayton [TSY]; Jessica Gorman  
**Cc:** Adam Wood [TSY]; Suzy Morrissey [TSY]; Steve Mack [TSY]; Jeremy Salmond [TSY]; Graham Tubb; Sarah.Simmiss@ird.govt.nz  
**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi all

s9(2)(h)

Kind regards

**Peter Gunn**  
Crown Counsel/Team Manager Constitutional and Human Rights Team  
**Crown Law Te Tari Ture o te Karauna**  
DDI: +64 4 494 5561  
M: s9(2)(a)  
[www.crownlaw.govt.nz](http://www.crownlaw.govt.nz)

---

**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Monday, 18 April 2016 15:27  
**To:** 'Henry Clayton [TSY]'; Peter Gunn; Jessica Gorman  
**Cc:** Adam Wood [TSY]; Suzy Morrissey [TSY]; Steve Mack [TSY]; Jeremy Salmond [TSY]; Graham Tubb; Sarah.Simmiss@ird.govt.nz  
**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi

We have a meeting with the Ministers of Finance and Revenue in 30 minutes and that will be our last convenient opportunity to get the appointment letter signed by the two of them. Can I ask you to please finalise these documents ASAP. Sorry for the rush and thanks for your continuing efforts.

Paul

---

**From:** Henry Clayton [TSY] [<mailto:Henry.Clayton@treasury.govt.nz>]  
**Sent:** Monday, 18 April 2016 3:15 p.m.

**To:** Peter Gunn; Paul Kilford; Jessica Gorman

**Cc:** Adam Wood [TSY]; Suzy Morrissey [TSY]; Steve Mack [TSY]; Jeremy Salmond [TSY]; Graham Tubb;  
[Sarah.Simmiss@ird.govt.nz](mailto:Sarah.Simmiss@ird.govt.nz)

**Subject:** RE: URGENT - Memo and draft Gazette notice

[IN-CONFIDENCE]

Hi Peter

s9(2)(h)

Kind regards,

**Henry Clayton** | Senior Solicitor | **The Treasury**

Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Peter Gunn [<mailto:Peter.Gunn@crownlaw.govt.nz>]

**Sent:** Monday, 18 April 2016 12:02 p.m.

**To:** [Paul.Kilford@parliament.govt.nz](mailto:Paul.Kilford@parliament.govt.nz)

**Cc:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>;

Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>;

Jeremy Salmond [TSY] <[Jeremy.Salmond@treasury.govt.nz](mailto:Jeremy.Salmond@treasury.govt.nz)>; Jessica Gorman <[Jessica.Gorman@crownlaw.govt.nz](mailto:Jessica.Gorman@crownlaw.govt.nz)>

**Subject:** FW: URGENT - Memo and draft Gazette notice

Hi Paul

s9(2)(h)



s9(2)(h)



Kind regards

**Peter Gunn**

Crown Counsel/Team Manager Constitutional and Human Rights Team

**Crown Law *Te Tari Ture o te Karauna***

DDI: +64 4 494 5561

M: s9(2)(a)

[www.crownlaw.govt.nz](http://www.crownlaw.govt.nz)

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 17:50

**To:** Peter Gunn

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Suzy Morrissey [TSY]; 'Steve Mack [TSY]'; Jeremy Salmond [TSY]  
**Subject:** RE: URGENT - Memo and draft Gazette notice

Peter

s9(2)(h)

Kind regards  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Peter Gunn [<mailto:Peter.Gunn@crownlaw.govt.nz>]

**Sent:** Friday, 15 April 2016 3:05 p.m.

**To:** Dan Brown; Paul Kilford; 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Paul

My comments;

s9(2)(h)

Typo in memorandum (repetition “of either” in first line of third para under heading “Non-statutory Ministerial Inquiry”)

s9(2)(h)

Kind regards

**Peter Gunn**

Crown Counsel/Team Manager Constitutional and Human Rights Team

**Crown Law Te Tari Ture o te Karauna**

DDI: +64 4 494 5561

M: s9(2)(a)

[www.crownlaw.govt.nz](http://www.crownlaw.govt.nz)

---

**From:** Dan Brown [<mailto:Dan.Brown@dia.govt.nz>]

**Sent:** Friday, 15 April 2016 13:54

**To:** Paul Kilford; 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; Peter Gunn; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Paul – good work under pressure!

Following on from our phone call here is a couple of comments:

You 'll want to touch base with SSC's Cabinet Fees Framework team and/or the Office of the Minister of State Services about whether anything is needed re an exception to the Cabinet fees framework. Sometimes there are some formalities required such as a letter from the commissioning Minister to the State Services Minister re a the payment of a higher rate.

Regarding admin arrangements it is sensible for Treasury and IRD to provide admin support to the Inquiry given you are the subject matter experts. You'll need to think of appropriate arrangement about protocols and "Chinese Walls" to ensure that the Inquiry Head is able to (and is seen to be able to) provide frank and independent advice to Ministers (that may potentially differ to the preferred departmental positions of Treasury and IRD).

Regards

**Daniel Brown** | Policy Manager, Safer Communities

**Department of Internal Affairs Te Tari Taiwhenua**

Direct Dial: 04 494 0688 | Mobile: s9(2)(a)

46 Waring Taylor St | PO Box 805, Wellington 6140, New Zealand | [www.dia.govt.nz](http://www.dia.govt.nz)

---

**From:** Paul Kilford

**Sent:** Friday, 15 April 2016 1:27 p.m.

**To:** 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; Peter Gunn; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford; Dan Brown

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** URGENT - Memo and draft Gazette notice

Hi everyone

Hopefully you are all expected to hear from me! Attached for your collective review is:

- Memo from MoF to other delegated Ministers seeking agreement to the scope and terms of the review;

- Draft *Gazette* notice.

The content of the memo tries to buy time for a formal review of the notice, but if people can turn this around as quickly as possible that would be appreciated.

Please also note that the terms of reference have been redrafted into slightly more formal language than was used in the PR on Monday. I am running this revised language by Mr Shewan to ensure that we are not seen to be inadvertently narrowing the scope of the inquiry.

To the IRD legal team, s9(2)(h)

s9(2)(h)

To DIA, can you please confirm you are happy with the remuneration amounts and the Treasury/IRD secretariat wording.

I look forward to hearing from you. Ideally I will have a final version of these documents to email to MoF for his final approval by around 3pm.

Apologies for the unreasonably deadline and thanks in advance  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** s9(2)(g)(i)  
**Sent:** Monday, 4 April 2016 3:49 p.m.  
**To:** 'Melissa Siegel'  
**Subject:** RE: Did you just get the one PQ from WP?

We've just received from WP:

Since 1 November 2008, how many times has information about beneficiaries and accounts been demanded of New Zealand's 12,000-plus offshore trusts?

---

**From:** s9(2)(g)(i)  
**Sent:** Monday, 4 April 2016 3:16 p.m.  
**To:** 'Melissa Siegel' <Melissa.Siegel@ird.govt.nz>  
**Subject:** RE: Did you just get the one PQ from WP?

[IN-CONFIDENCE]

Thanks. I will see if Steve wants to attend also (as he has been across the BEPS work from the Treasury side). We are both free from 2.40pm tomorrow.

The PQ received from WP is:

What progress has the government made on the OECD's Base Erosion and Profit Shifting (BEPS) work programme, if any?

We received one BEPS PQ from s9(2)(a) last week that I discussed with Susanna.

Thanks

s9(2)(g)(i) | Analyst | The Treasury  
Tel: s9(2)(g)(i) @treasury.govt.nz

---

**From:** Melissa Siegel [<mailto:Melissa.Siegel@ird.govt.nz>]  
**Sent:** Monday, 4 April 2016 3:08 p.m.  
**To:** s9(2)(g)(i) <[s9\(2\)\(g\)\(i\)@treasury.govt.nz](mailto:s9(2)(g)(i)@treasury.govt.nz)>  
**Subject:** Did you just get the one PQ from WP?

We got the BEPS one, but also some relating to foreign trusts.

Here are our recent BEPS responses:

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
03791	What advice, if any, has he received on the number of multinational companies IRD is concerned about paying too little tax since January 2013?	Midday 4 April 2016	6 April 2016	
s9(2)(g)(i)				

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
---	----------	----------	---------	-------------

03792	What changes to tax rules have been made to address "potential deficiencies in our own rules" identified by IRD in an August 2013 tax policy report entitled Taxation of multinationals?	Midday 4 April 2016	6 April 2016	
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s9(2)(g)(i)

And another relevant one from the beginning of March:

#	QUESTION	DUE G&ES	DUE MoR	APPROVED BY
01827	Why, after receiving advice on August 15, 2013 from IRD that recommended "initiatives to protect the New Zealand tax base from BEPS should be a key focus when developing the next 18-month tax policy work programme" has no new legislation in this area been introduced to Parliament 30 months later?	10am 08/03/2016	10/03/2016	

s9(2)(g)(i)

I also just forwarded you an outlook invitation to a meeting tomorrow morning to talk about the OIA. s9(2)(a)

Thanks

Melissa

This email and any attachment may contain confidential information. If you have received this email or any attachment in error, please delete the email / attachment, and notify the sender. Please do not copy, disclose or use the email, any attachment, or any information contained in them. Consider the environment before deciding to print: avoid printing if you can, or consider printing double-sided. Visit us online at [ird.govt.nz](http://ird.govt.nz)



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**From:** s9(2)(g)(i) [TSY]  
**Sent:** Monday, 18 April 2016 11:52 a.m.  
**To:** @Tax Strategy [TSY]; Tim Ng [TSY]; Catherine Atkins [TSY]  
**Subject:** Financial implications of the establishment of the Government Inquiry into the Foreign Trust Disclosure Rules

[IN-CONFIDENCE]

This report went across this morning:

[Financial implications of the establishment of the Government Inquiry into the Foreign Trust Disclosure Rules \(Treasury:3433623v1\)](#) [Add to worklist](#)

Regards

s9(2)(g)(i) Analyst | **The Treasury**  
s9(2)(g)(i) [@treasury.govt.nz](#)

**Treasury Report:** Financial implications of the establishment of the Government Inquiry into the Foreign Trust Disclosure Rules

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<b>Date:</b>	18/04/2016	<b>Report No:</b>	T2016/694
		<b>File Number:</b>	SH-13-5

**Action Sought**

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	<b>Action Sought</b>	<b>Deadline</b>
Minister of Finance (Hon Bill English)	<b>Agree</b> to the recommendations	18 April 2016
Associate Finance Minister (Hon Steven Joyce)	<b>Agree</b> to the recommendations	18 April 2016

**Contact for Telephone Discussion** (if required)

---

<b>Name</b>	<b>Position</b>	<b>Telephone</b>	<b>1st Contact</b>
s9(2)(g)(i)	Analyst, Tax Strategy	s9(2)(g)(i) s9(2)(a)	
Suzy Morrissey	Team Leader, Tax Strategy	04 917 6292 (wk)	✓

**Actions for the Minister's Office Staff** (if required)

---

**Return** a copy of the signed report to Treasury by Monday 18 April 2016.

Note any feedback on the quality of the report

**Enclosure:** No

## **Treasury Report:** Financial implications of the establishment of the Government Inquiry into the Foreign Trust Disclosure Rules

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1. On 11 April 2016, Cabinet agreed that an independent review be undertaken of the disclosure rules covering foreign trusts registered in New Zealand and any related matters that may arise [CAB-16-MIN-0158 refers].
2. Cabinet authorised the Prime Minister, the Minister of Finance, the Attorney-General and the Minister of Revenue to finalise the terms of reference and form of the review. The Minister of Finance's office has informed us that the review will be a government inquiry under the Inquiries Act 2013. We understand the Inquiry is to report findings and opinions by 30 June 2016.
3. We expect the cost of the Inquiry to be around \$25,000 to \$30,000. As the Inquiry may incur other expenditure or require expert advice (e.g. legal advice) we recommend that a total of \$150,000 is appropriated. Treasury will be able to fund this cost from existing 2015/16 baselines. However, a new appropriation will be required. It is proposed the costs of the Inquiry are charged to a new non-departmental other expense appropriation. As the appropriation is less than \$5 million we recommend an exemption from performance reporting under section 15D(2)(b)(ii) of the Public Finance Act.

### **Recommended Action**

---

We recommend that you:

- a **note** that Cabinet agreed that an independent review be undertaken of the disclosure rules covering foreign trusts registered in New Zealand and any related matters that may arise [CAB-16-MIN-0158 refers].
- b **note** that Cabinet authorised the Prime Minister, the Minister of Finance, the Attorney-General and the Minister of Revenue to finalise the terms of reference and form of the review [CAB-16-MIN-0158 refers].
- c **note** that Treasury has been advised by the Minister of Finance's office that the review will be a government Inquiry established under the Inquiries Act 2013.
- d **note** that Treasury estimates the cost of this Inquiry will be between \$0.025 and \$0.030 million, but \$0.150 million should be appropriated so that other expenditure such as expert advice can be met.
- e **note** that Treasury will be able to fund this cost from existing 2015/16 baselines.

# IN-CONFIDENCE

- f **agree** to the establishment of a new appropriation “Government Inquiry into Foreign Trust Disclosure Rules” in Vote Finance:

Vote	Appropriation Minister	Title	Type	Scope
Finance	Minister of Finance	Government Inquiry into Foreign Trust Disclosure Rules	Non-departmental other expense	This appropriation is limited to the operation of the inquiry into foreign trust disclosure rules.

*Agree / disagree*  
Minister of Finance

*Agree / disagree*  
Associate Minister of Finance

- g **approve** the following changes to appropriations:

Vote Finance Minister of Finance	\$m – increase/(decrease)				
	2015/16	2016/17	2017/18	2018/19	2019/20 & Outyears
Departmental Output Expense: Policy Advice – Finance (funded by revenue Crown)	(0.150)	-	-	-	-
Non-departmental other expense: Government Inquiry into Foreign Trust Disclosure Rules	0.150	-	-	-	-
<b>Total operating</b>	-	-	-	-	-

*Agree / disagree*  
Minister of Finance

*Agree / disagree*  
Associate Minister of Finance

- h **agree** that the proposed changes to appropriations for 2015/16 above be included in the 2015/16 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply.

*Agree / disagree*  
Minister of Finance

*Agree / disagree*  
Associate Minister of Finance

- i **agree** to exempt the Government Inquiry into Foreign Trust Disclosure Rules from end-of-year performance reporting under section 15D(2)(b)(ii) of the Public Finance Act.

*Agree / disagree*  
Associate Minister of Finance

- j **agree in principle** to transfer to 2016/17 any underspends in Government Inquiry into Foreign Trust Disclosure Rules, with amounts for transfer to be confirmed in the 2016 October Baseline Update once audited accounts for 2015/16 are available.

*Agree / disagree*  
Minister of Finance

*Agree / disagree*  
Associate Minister of Finance

Suzy Morrissey  
**Team Leader, Tax Strategy**

Hon Bill English  
**Minister of Finance**

Hon Steven Joyce  
**Associate Minister of Finance**

---

**From:** Steve Mack [TSY]  
**Sent:** Tuesday, 19 April 2016 10:27 a.m.  
**To:** @Tax Strategy [TSY]; Tim Ng [TSY]; Catherine Atkins [TSY]  
**Subject:** FW: Gazette notice

[IN-CONFIDENCE]

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**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Tuesday, 19 April 2016 10:24 a.m.  
**To:** 'John Shewan' <John.Shewan@vuw.ac.nz>; 'Emma Grigg' <Emma.Grigg@ird.govt.nz>; 'Carmel Peters' <Carmel.Peters@ird.govt.nz>; Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>; Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>; 'John Nash' <John.Nash@ird.govt.nz>; Maraina Hak <Maraina.Hak@parliament.govt.nz>  
**Cc:** ^IRD: Naomi Ferguson <naomi.ferguson@ird.govt.nz>; 'Graham Tubb' <Graham.Tubb@ird.govt.nz>; ^Parliament: Danielle Coe <danielle.coe@parliament.govt.nz>  
**Subject:** RE: Gazette notice

Hi again everyone

To confirm, the notice has now been published: <https://gazette.govt.nz/notice/id/2016-go2253>

I have just spoken with John and confirmed with him. Apart from two matters of admin (helping John with the publication of the relevant Inquiries Act order regarding restrictions of information and arranging an interim meeting between John and Ministers) this office will have no further involvement with the inquiry until the report is finalised.

Kind regards  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Paul Kilford  
**Sent:** Tuesday, 19 April 2016 9:37 a.m.  
**To:** 'John Shewan'  
**Cc:** Emma Grigg; Carmel Peters; [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz); [steve.mack@treasury.govt.nz](mailto:steve.mack@treasury.govt.nz); John Nash; Maraina Hak  
**Subject:** RE: Gazette notice

Good morning John

I have just received confirmation from the *Gazette* that they intend to publish the attached notice today. I have been told that it should be on their website by 11am at the latest. The only change to the notice attached will be the date, which will be changed to confirm that the Inquiry can commence today. This means your meeting with

officials, scheduled for 11am, should be able to go ahead. I will check the website and call you as soon as the notice has appeared.

As an additional piece of admin, the notice and the Inquiries Act require you to “make an order” giving effect to restrictions of information – in this case it will be an order to preserve the tax secrecy provisions. This order doesn’t have to be made immediately and Crown Law is working on options for how that order can be made. I will be in touch about that at some stage in the week commencing 2 May.

Finally, now that the Gazette notice is finalised, I have an appointment letter signed by Hons English and Woodhouse. The hard copies will be sent to your home address, but do you want a scanned copy before that? If so, is this s9(2)(a) the most appropriate one or would you prefer it was sent to a personal address?

Kind regards  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings. PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** John Shewan s9(2)(a)  
**Sent:** Monday, 18 April 2016 5:36 p.m.  
**To:** Paul Kilford  
**Cc:** Emma Grigg; Carmel Peters; [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz); [steve.mack@treasury.govt.nz](mailto:steve.mack@treasury.govt.nz); John Nash; Maraina Hak  
**Subject:** Re: Gazette notice

Thanks for the update Paul.

To Officials attending the meeting I suggest we reschedule to 11am tomorrow, with the reserve time being 11am Wednesday. We will make a call on which day when we hear back from Paul.

If we have to go to Wednesday and 11am does not suit can you find an alternative time that does please Sam. I expect we will need about 2 hours.

Regards

John

Sent from my iPad

On 18/04/2016, at 5:30 pm, Paul Kilford <[Paul.Kilford@parliament.govt.nz](mailto:Paul.Kilford@parliament.govt.nz)> wrote:

John

By way of update, we now have a Gazette notice that has gone through all the necessary legal checks and approved by Ministers. I am trying my best to convince the Gazette office that it should be published tomorrow – although their consistent advice has been that it will be Wednesday. They have told me that the Gazette is published between 10 and 11am on the day of publication. I will

chase them up in the morning to confirm which day that will be and let you know as soon as I hear anything. Apologies for the continuing uncertainty.

We will send you both the letter of engagement and the Gazette notice once the latter is available. The only slight changes to the documents have been in the confidentiality sections. As discussed on Friday, this wording is designed to give IR the requisite comfort that:

- Information passed to you retains its tax secret status; and
- You, in your report, cannot breach tax secrecy.

Regards  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** John Shewan s9(2)(a)  
**Sent:** Friday, 15 April 2016 5:05 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** Inquiry into Foreign Trust Disclosure Rules

Dear Suzy

Further to our phone discussion, this is to confirm that I am satisfied that I have no conflicts of interest arising from my directorships, other employment or investments that need to be considered in the context of the Inquiry I have been requested to undertake.

s9(2)(a) is employed as a lawyer at Internal Affairs, and that agency has some responsibility for the AML rules. I do not know if s9(2)(a) has any role in that area. I mention it merely because my work will consider the AML rules and their application to foreign trusts.

Regards

John Shewan

---


**From:** Henry Clayton [TSY]  
**Sent:** Monday, 18 April 2016 4:29 p.m.  
**To:** Paul Kilford  
**Cc:** Suzy Morrissey [TSY]; Steve Mack [TSY]; Adam Wood [TSY]; Graham Tubb  
**Subject:** RE: Gazette proof for notice: 2016-go2253  
**Attachments:** Edits to Gazette notice.pdf

[IN-CONFIDENCE]

Draft email for you Paul (and attachment) – the edits assume Ministers sign today. You will also need to respond to the points 1,2,3 below:

Our edits are shown in the attached scan.

s9(2)(g)(i)



---

**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Monday, 18 April 2016 4:07 p.m.  
**To:** Henry Clayton [TSY] <Henry.Clayton@treasury.govt.nz>; Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>; Peter Gunn <Peter.Gunn@crownlaw.govt.nz>; Graham Tubb <Graham.Tubb@ird.govt.nz>  
**Subject:** FW: Gazette proof for notice: 2016-go2253

Please can you proof this and put the amended wording into an email reply to the Gazette office?

Thanks  
Paul

---

**From:** [diagazetteonline@cwpgovt.nz](mailto:diagazetteonline@cwpgovt.nz) [mailto:[diagazetteonline@cwpgovt.nz](mailto:diagazetteonline@cwpgovt.nz)]  
**Sent:** Monday, 18 April 2016 4:00 p.m.  
**To:** Paul Kilford  
**Subject:** Gazette proof for notice: 2016-go2253

IN CONFIDENCE

Please find attached your proof for publication on **20 Apr 2016**.

Please get back to me by **12pm tomorrow (April 19)** with:

1. Any changes
2. How many copies you require and delivery details (please specify physical or postal address)
3. Confirmation of the publication date.

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The Department of Internal Affairs Te Tari Taiwhenua

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## Establishment of the Government Inquiry into Foreign Trust Disclosure Rules

Pursuant to section 6(3) of the Inquiries Act 2013, The Honourable Simon William English, Minister of Finance, and The Honourable Michael Woodhouse, Minister of Revenue, hereby establish the Government Inquiry into Foreign Trust Disclosure Rules ("Inquiry").

### Background **(bold)**

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, in its combined Phase 1 and Phase 2 Peer Review Report of 2013, rated New Zealand "compliant" - the highest possible ranking.

As a result of the recent release of documents known as the 'Panama Papers', concerns have been raised about rules covering foreign trusts registered in New Zealand.

Cabinet has decided to initiate a review of New Zealand's disclosure rules relating to foreign trusts registered in New Zealand to ensure New Zealand's reputation is maintained.

### Membership

~~Mr~~ John Shewan is appointed to and constitutes the Inquiry.

### Terms of Reference

The Inquiry will inquire into, report upon, and make any recommendations it considers appropriate relating to:

- a. New Zealand's existing foreign trust disclosure rules in the following areas:
  - i. record-keeping requirements, including records required to be provided to the New Zealand government;
  - ii. enforcement of the rules;
  - iii. exchange of information with foreign jurisdictions; and
  - iv. practices for complying with the rules;
- b. whether the existing foreign trust disclosure rules and the enforcement of those rules are sufficient to ensure New Zealand's reputation is maintained, when considered alongside New Zealand's:
  - i. commitment to the OECD action plan on base erosion and profit shifting (BEPS);
  - ii. commitment to the Convention on Mutual Administrative Assistance in Tax Matters;
  - iii. commitment to implementing the global standard for the automatic exchange of information (AEOI);
  - iv. existing and planned bilateral tax treaty network (including tax information exchange agreements);
  - v. anti-money laundering and countering financing of terrorism laws; and
  - vi. other related regimes; and
- c. options for enhancements to New Zealand's foreign trust disclosure rules and enforcement of those rules, including any practical improvements that could be made or other actions that could be taken.

In these terms of reference:

**foreign trust** has the meaning given to that term by the Income Tax Act 2007, and

**foreign trust disclosure rules** means:

- any laws of New Zealand requiring trustees of a foreign trust, or their agents or advisors, to provide information to any New Zealand government agency, and includes (without limitation):
  - laws for the enforcement of those requirements; and
  - the reporting and disclosure obligations of a resident foreign trustee (as defined in the Tax Administration Act 1994) of a foreign trust; and
- the New Zealand government's obligations to provide information it holds about foreign trusts to tax authorities from other jurisdictions.

ss(2)(h)

### Reporting

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**. Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

### Consideration of Evidence

The Inquiry may begin considering evidence on and from **20 April 2016**.

*[Can this be 19 April?]*

### Relevant Department

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this ~~28~~ day of April 2016.

HON SIMON WILLIAM ENGLISH, Minister of Finance.

HON MICHAEL WOODHOUSE, Minister of Revenue.

2016-g02253

*18<sup>th</sup>*

---

**From:** James Beard [TSY]  
**Sent:** Thursday, 14 April 2016 7:36 p.m.  
**To:** Suzy Morrissey [TSY]; Tim Ng [TSY]  
**Subject:** RE: Review - Confidential

Hi Suzy

I am happy as long as we have clear reasoning that positions John at the Level 5 band. I am not saying that he isn't there – just that we need to have a clear argument/justification that John meets whatever criteria exists for Level 5 fee.

Ultimately one for Tim to call on given this is unbudgeted.

Thanks for organising this.

JAMES

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 7:31 p.m.  
**To:** Tim Ng [TSY] <tim.ng@treasury.govt.nz>; James Beard [TSY] <James.Beard@treasury.govt.nz>  
**Subject:** Review - Confidential

[IN-CONFIDENCE]

Hi both

I would like to contact Mr John Shewan, the proposed Inquiry member for the Government Inquiry into Foreign Trust Disclosure, with a fixed fee offer of s9(2)(g)(i) including any and all travel) to conduct the Inquiry.

This figure has been arrived at using the 'All of Government Consultancy – Maximum Daily Rates' as a guide. The level 5 daily maximum amount is \$3,750 and a daily amount of s9(2)(g)(i) proposed. Level 5 is considered to be an appropriate base for calculation given the experience of Mr John Shewan, who was previously Chairman of PwC in NZ, and a member of the 2009 Tax Working Group. For the 15 days work for which the Inquiry member is to be contracted this represents a total cost of s9(2)(g)(i)

Please confirm that you agree with this proposal.

Kind Regards  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 5:39 p.m.  
**To:** Steve Mack [TSY]  
**Subject:** Gazette for Review of Foreign Trust Disclosure

Attachment withheld under s9(2)(g)(i)

[IN-CONFIDENCE]

[Gazette for Review of Foreign Trust Disclosure \(Treasury:3433007v1\)](#) [Add to worklist](#)

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** James Beard [TSY]  
**Sent:** Thursday, 14 April 2016 5:04 p.m.  
**To:** Suzy Morrissey [TSY]  
**Cc:** Tim Ng [TSY]  
**Subject:** RE: Review of foreign trust disclosure rules

Call me on s9(2)(a)

How much you think we are talking?

We also need to think about the possibility of an IRD secondee funded from the tax team budget (as part of the reciprocal deal). s9(2)(g)(i)

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 4:35 p.m.  
**To:** James Beard [TSY] <James.Beard@treasury.govt.nz>; Tim Ng [TSY] <tim.ng@treasury.govt.nz>  
**Subject:** Review of foreign trust disclosure rules

[IN-CONFIDENCE]

Hi both

The review will be a statutory review under the Enquiries Act.

Tsy will fund the review and provide some resource (Steve Mack will attend consultations undertaken by the reviewer with external parties). With the s9(2)(a) coming on board this is just about manageable but happy to discuss.

I am finalising the contract with legal. OE were enquiring about funding so Tim, I have passed on your comment that ESD could fund, but the amount of cost is to be confirmed and I would like to talk to one of you about. Can someone call me today / tonight about that? Thanks s9(2)(a)

Thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Adam Wood [TSY]  
**Sent:** Thursday, 14 April 2016 5:36 p.m.  
**To:** Suzy Morrissey [TSY]  
**Cc:** Henry Clayton [TSY]  
**Subject:** RE: DRAFT Contact for Services - Mr John Shewan

Hi Suzy

s9(2)(h)



We may need to discuss in more detail tomorrow morning.

Kind regards

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 4:49 p.m.  
**To:** Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>  
**Subject:** DRAFT Contact for Services - Mr John Shewan

[IN-CONFIDENCE]

s9(2)(h)



Thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** Steve Mack [TSY]  
**Sent:** Wednesday, 13 April 2016 11:36 a.m.  
**To:** Emma Grigg  
**Cc:** Suzy Morrissey [TSY]; Samantha Aldridge  
**Subject:** RE: Points for Discussion

[IN-CONFIDENCE]

Thanks Emma.

s9(2)(g)(i)



Steve

---

**From:** Emma Grigg [mailto:Emma.Grigg@ird.govt.nz]  
**Sent:** Wednesday, 13 April 2016 11:23 a.m.  
**To:** Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>  
**Subject:** FW: Points for Discussion

---

**From:** Emma Grigg  
**Sent:** Wednesday, 13 April 2016 11:22 a.m.  
**To:** 'steve.mak@treasury.govt.nz'; Samantha Aldridge; Carmel Peters; John Nash; Suzy Morrissey ([suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz)); Anu Anand; 'paul.kilford@parliament.govt.nz'; 'maraina.hak@parliament.govt.nz'  
**Cc:** David Carrigan; Struan Little; Naomi Ferguson; Susan Price; Amanda Rapley; Matt Bengie; Mary Craig; Arlene White  
**Subject:** FW: Points for Discussion

We have our first meeting with John Shewan tomorrow (Carmel, Sam, Anu, Steve, Suzy and me). We are also meeting internally tonight to discuss the IR information secrecy issues. Once we have had the meeting tomorrow we will be back in touch on how we are going to manage the interactions with John Shewan- flow of information/organisation of meetings etc between IR and Treasury. At this stage we are thinking that Samantha Aldridge will be the IR central point of contact and she will liaise with relevant people in IR to organise necessary meetings and information flows. When John Nash returns from overseas we will work out the way he would like to run the co-ordination of his information to John. John Shewan is happy to wait until Monday to meet with John Nash to sort this side out.

Happy to discuss.  
Emma


---

**From:** John Shewan s9(2)(a)  
**Sent:** Wednesday, 13 April 2016 8:40 a.m.

**To:** Emma Grigg  
**Subject:** Points for Discussion

Hi Emma

OIA s18(c)(i) & s6(c)TAA



Regards

John

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---

**From:** Suzy Morrissey [TSY]  
**Sent:** Monday, 11 April 2016 9:21 a.m.  
**To:** Steve Mack [TSY]  
**Subject:** FW: OECD Tax News  
**Attachments:** Foreign trust review - PR.DOCX

[UNCLASSIFIED]

FYI

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Monday, 11 April 2016 8:39 a.m.  
**To:** 'Emma Grigg' <Emma.Grigg@ird.govt.nz>; Maraina Hak <Maraina.Hak@parliament.govt.nz>  
**Cc:** 'Carmel Peters' <Carmel.Peters@ird.govt.nz>; Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>  
**Subject:** RE: OECD Tax News

Thanks again for this Emma. In light of this, the PR being released this afternoon mentions our involvement in this meeting. Can I ask you to please quickly review the attached and let me know if there are any technical problems with it.

Cheers  
Paul

**Paul Kilford** | Tax Policy Advisor  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Emma Grigg [mailto:Emma.Grigg@ird.govt.nz]  
**Sent:** Saturday, 9 April 2016 8:21 a.m.  
**To:** Maraina Hak; Paul Kilford  
**Subject:** FW: OECD Tax News

John attending this next week.  
Emma

-----Original Message-----

**From:** [ctp.contact@mail.oecd.org](mailto:ctp.contact@mail.oecd.org) [[ctp.contact@mail.oecd.org](mailto:ctp.contact@mail.oecd.org)]

**Sent:** Saturday, April 09, 2016 05:50 AM New Zealand Standard Time

**To:** Emma Grigg

**Subject:** OECD Tax News



Dear Ms. Grigg



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8 APRIL 2016

## Tax administrations ready to act on “Panama Papers”

08/04/2016 - Government officials from around the world have called on the OECD to convene a special project meeting of [the Joint International Tax Shelter Information and Collaboration \(JITSIC\) Network](#) to explore possibilities of co-operation and information-sharing, identify tax compliance risks and agree collaborative action, in light of the “Panama Papers” revelations.

The meeting, to be held in Paris on Wednesday 13 April, will bring together senior tax administration officials from countries worldwide.

JITSIC is a network of tax administration officials with responsibility for responding to global compliance risks through active collaboration and fast and effective information exchange with other tax administrations.

The “Panama Papers” revelations contain an unprecedented amount of information, including more than 11 million documents covering 210,000 companies in 21 offshore jurisdictions. Each transaction spans across a number of different jurisdictions and may involve multiple entities and individuals.

The meeting at the OECD presents tax administrations with a first opportunity to act on the considerable body of information revealed by the “Panama Papers” release. As a network of tax administrations, committed to sharing intelligence and working together to tackle common risks, the JITSIC Network is well placed to take on this challenge.

More information about JITSIC is available at: [www.oecd.org/tax/forum-on-tax-administration/ftajitsicnetwork.htm](http://www.oecd.org/tax/forum-on-tax-administration/ftajitsicnetwork.htm)

For further information, contact [Pascal Saint-Amans](#), director of the OECD Centre for Tax Policy and Administration (+33 1 4524 9108), [Grace Perez-Navarro](#) (+33 1 4524 1880) or the [OECD Media Office](#) (+33 1 4524 9700).



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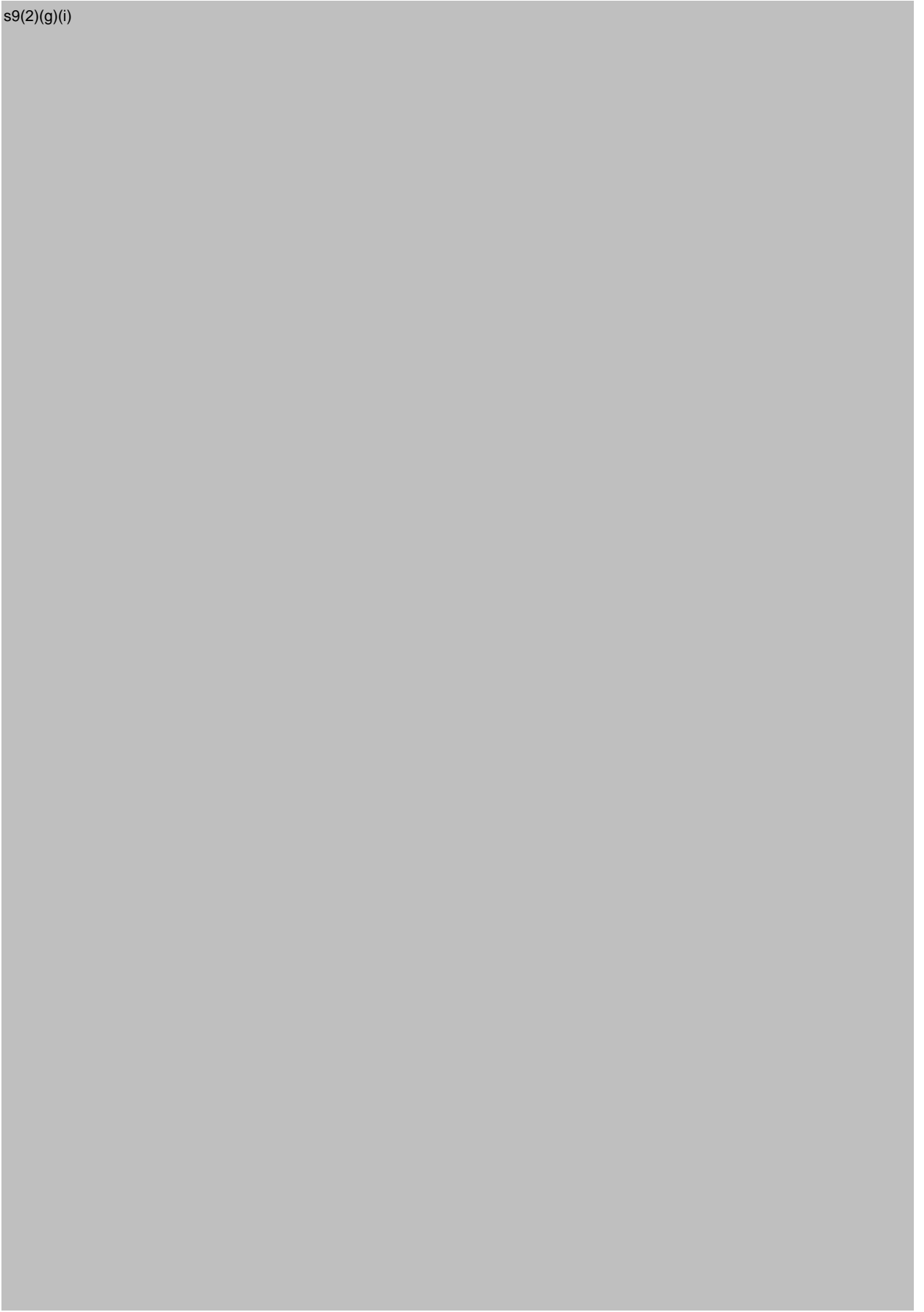
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s9(2)(g)(i)





s9(2)(g)(i)

s9(2)(g)(i)



---

**From:** Jessica Rowe <Jessica.Rowe@ird.govt.nz>  
**Sent:** Wednesday, 13 April 2016 6:47 p.m.  
**To:** 'paul.kilford@parliament.govt.nz'; 'maraina.hak@parliament.govt.nz'  
**Cc:** PAS Policy Team - Carmel; Emma Grigg; ^IRD: Naomi Ferguson; Suzy Morrissey [TSY]; Steve Mack [TSY]; ^IRD: Struan Little; ^IRD: David Carrigan; John Nash; Anu Anand  
**Subject:** Report to Minister of Finance - Request from John Shewan for information from Inland Revenue  
**Attachments:** 1304161842150920.pdf

Hi Paul

As discussed, please find attached the report to the Minister of Finance.

Kind regards  
Jess

**Jess Rowe** | Senior Policy Advisor, Policy and Strategy | **Inland Revenue**  
s9(2)(a) F. +64 4 903 2413 |  
E. [Jessica.rowe@ird.govt.nz](mailto:Jessica.rowe@ird.govt.nz)

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**Inland Revenue**  
Te Tari Taake

## POLICY AND STRATEGY

**Policy report:** Request from John Shewan for information from  
Inland Revenue

---

<b>Date:</b>	14 April 2016	<b>Priority:</b>	<b>High</b>
<b>Security level:</b>	In Confidence	<b>Report no:</b>	IR2016/

### Action sought

---

	Action sought	Deadline
Minister of Finance	<p><b>Note</b> the content of this report.</p> <p><b>Approve</b> the release by Inland Revenue of relevant policy information relating to the foreign trust rules to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.</p> <p><b>Refer</b> a copy of this report to the Minister of Revenue</p>	14 April 2016

### Contact for telephone discussion (if required)

---

Name	Position	Telephone
Carmel Peters	Policy Manager, Inland Revenue	04 890 6139 (wk) s9(2)(a)



**POLICY AND STRATEGY**

*Te Wāhanga o te Rautaki me te Kaupapa*

**National Office**

Level 8

55 Featherston Street

PO Box 2198

Wellington 6140

New Zealand

Telephone 04-890 1500

Facsimile 04-903 2413

14 April 2016

Minister of Finance  
Minister of Revenue

## **Request from John Shewan for information from Inland Revenue**

### **Purpose**

1. John Shewan has requested Inland Revenue to provide policy and technical documents including reports to Government in relation to the foreign trust rules and related matters. These documents relate to the initial reform of our trust rules in 1988 and all subsequent changes to those rules. The reason Mr Shewan has asked for this information is to assist him with his review of foreign trust disclosure rules.
2. To release the resulting information, Inland Revenue requires approval from the Minister of Finance under section 81(4)(j) of the Tax Administration Act.

### **Background**

3. On 11 April 2016 the Government appointed John Shewan to conduct an independent review of disclosure rules covering foreign trusts.
4. The specific request is to assist Mr Shewan with this review.
5. The results are all aggregate figures and do not identify specific taxpayers.
6. Upon release, the information will be used by Mr Shewan to report to the Government by 30 June 2016 on his review of disclosure rules covering foreign trusts.
7. The information requested is covered by section 81 of the Tax Administration Act 1994, which requires all Inland Revenue officers to maintain, and assist in maintaining, the secrecy of all matters relating to the Revenue Acts. This means that we cannot provide the information outside of the Department unless one of the exceptions contained within section 81 applies.

8. We have determined that section 81(4)(j) is the only exception that would allow release of the requested information. This section provides for:

*communicating any information of a general nature, being information which does not reveal the identity of any taxpayer, to any person authorised by the Minister [of Finance] to receive it, where the Minister—*

*(i) is satisfied that it is in the public interest to communicate that information, and that such information is readily available in the department; and*

*(ii) considers that it is reasonable and practicable to communicate that information.*

### **Information intended for release**

---

9. Inland Revenue requests you to authorise Inland Revenue to provide policy and technical documents including reports to Government in relation to the foreign trust rules and related matters. These documents relate to the initial reform of our trust rules in 1988 and all subsequent changes to those rules.

## **Recommended action**

---

I recommend that you:

- (a) **note** the content of this report.

Noted

- (b) **approve** the release by Inland Revenue of relevant policy information relating to the foreign trust rules to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.

Approved/Not approved

- (c) **Refer** this report to the Minister of Revenue for his information.

Referred

s9(2)(a)



**Carmel Peters**  
Policy Manager  
Policy and Strategy

**Hon Bill English**  
Minister of Finance

---

**From:** Steve Mack [TSY]  
**Sent:** Wednesday, 13 April 2016 10:41 a.m.  
**To:** Emma Grigg (emma.grigg@ird.govt.nz)  
**Cc:** Suzy Morrissey [TSY]  
**Subject:** Draft Shewan Contract  
**Attachments:** 3430947\_1.docx

[IN-CONFIDENCE]

Emma-

I haven't yet heard whether John will be contracted by Treasury or elsewhere, but this is the standard Treasury contract. Presumably other contracts would capture much the same information.

Do you think this is something John would want to discuss tomorrow?

Steve



# Contract for Services

**[short title for Contract]** [add Contract Reference number if applicable]

## The Parties

### The Treasury

(Buyer)

1 The Terrace, Wellington

P O Box 3724, Wellington 6140

and

**[insert the legal name of the Supplier]**

(Supplier)

**[insert address]** For a company use the registered office. For others use physical address.

**[insert address]**

## The Contract

### Agreement

The Buyer appoints the Supplier to deliver the Services described in this Contract and the Supplier accepts that appointment. This Contract sets out the Parties' rights and obligations.

### The documents forming this Contract are:

- |   |                   |
|---|-------------------|
| 1. This page  | <b>Page 1</b>     |
| 2. Contract Details and Description of Services   | <b>Schedule 1</b> |
| 3. Standard Terms and Conditions  | <b>Schedule 2</b> |
| GMC Form 1 SERVICES   Schedule 2 (2nd Edition) available at: <a href="http://www.procurement.govt.nz">www.procurement.govt.nz</a> |                   |
| 4. Any other attachments described at Schedule 1.   |                   |

### How to read this Contract

- Together the above documents form the whole Contract.
- Any Supplier terms and conditions do not apply.
- Clause numbers refer to clauses in Schedule 2.
- Words starting with capital letters have a special meaning. The special meaning is stated in the Definitions section at clause 17 (Schedule 2).

## Acceptance

In signing this Contract each Party acknowledges that it has read and agrees to be bound by it.

For and on behalf of the **Buyer**:

For and on behalf of the **Supplier**:

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(signature)

**name:**

**name:**

**position:**

**position:**

**date:**

**date:**

# Schedule 1

## Contract Details and Description of Services

<b>Start Date</b>		Reference Schedule 2 clause 1
<b>End Date</b>		Reference Schedule 2 clause 1

Contract Managers Reference Schedule 2 clause 4	Buyer's Contract Manager	Supplier's Contract Manager
<b>Name:</b>		
<b>Title / position:</b>		
<b>Address:</b>		
<b>Phone:</b>		
<b>Fax:</b>		
<b>Email:</b>		

Addresses for Notices Reference Schedule 2 clause 14	Buyer's address	Supplier's address
<b>For the attention of:</b>	[Contract Mgr or senior mgr]	[Contract Mgr or senior mgr]
<b>c.c. Contract Manager</b>	[cc if senior manager above]	[cc if senior manager above]
<b>Delivery address:</b>		
<b>Postal address:</b>		
<b>Fax:</b>		
<b>Email:</b>		

Supplier's Approved Personnel Reference Schedule 2 clause 2.5	[OPTIONAL] Approved Personnel
<b>Name:</b>	
<b>Position:</b>	
<b>Specialisation:</b>	

Supplier's Approved Sub-contractor Reference Schedule 2 clause 7	[OPTIONAL] Approved Sub-contractor
<b>Name:</b>	
<b>Address:</b>	
<b>Specialisation:</b>	

Description of Services
<p><b>[Insert a concise description of the Services to be provided. Use the questions as prompts.]</b></p> <p><b>Context [optional]</b></p> <p>[Describe the background to the Services.]</p> <p>[What are the overarching goals, objectives and outcomes you want to achieve?]</p> <p><b>Description of Services</b></p> <p>[What is the nature of the Services?]</p> <p>[How should the Services be delivered?]</p> <p>[Refer to any proposal prepared by the Supplier if this helps describe any aspects of the Service.]</p>

**Deliverables**

[What are the key Deliverables or outputs?]

[What are the specific tasks the Supplier must complete?]

[What are the specific Deliverables and/or Milestones? Describe each Deliverable/Milestone, its due date & payment due on completion. Note: the table below may be included in this section, or the Invoices section.]

Deliverable/Milestone	Performance Standards	Due date	Amount due (exc GST)
[insert specific Milestones to be achieved]	[insert the quality or standard or key performance indicator required]	[insert date for completion of Milestone]	[insert amount of instalment payable on successful completion of the Milestone]

**Example**

1. Develop training module on health & safety for staff.	In accordance with H&S Act & good practice	20 April 2012	\$2,500
2. Delivery of training to 20 staff.	2 full training sessions of 10 staff each	30 May 2012	\$3,000
3. Evaluation of training outcomes and end of contract report.	90% of staff rating training as 'good' to 'excellent'	30 June 2012	\$1,000
<b>Total (exc GST)</b>			<b>\$6,500</b>

**Performance standards** [These can be included in the type of table illustrated above.]

[What quality standards apply to the delivery of the Services?]

[How will these be measured?]

[When will they be measured and by whom?]

[What are the key performance indicators that describe the quality standards?]

**Specific code of conduct / health & safety / legislative requirement** [optional]

[Reference any specific code of conduct (other than SSC *Standards of Integrity and Conduct*), health & safety or legislative requirement the Supplier must be aware of in providing the Services. These can be noted in the 'Attachments' box at the end of Schedule 1. Attach a copy and/or provide web address where the document can be located.]

**Transfer of Records** [optional]

[If appropriate – include details of the Records that the Supplier must transfer to the Buyer during the term of the Contract, or at the end of the Contract. Make this a specific Deliverable under the Contract.]

**Supplier's Reporting Requirements**

Reference Schedule 2 clause 5

Report to:	Type of report	Due date
Contract Manager	[Interim Progress Report]	[insert date]
	[Monthly Progress Report]	[insert date]
	[Project completion report]	[insert date]

**CHARGES:** The following section sets out the Charges. Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include **Fees**, and where agreed, **Expenses** and **Daily Allowances**. The Charges for this Contract are set out below.

**Fees**

Reference Schedule 2 clause 3

The Supplier's Fees will be calculated as follows:

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency.]**

**Fixed Fee**

A fixed Fee of \$[ ] excluding GST.

**OR**

**Hourly Fee Rate**

For each hour worked an Hourly Fee Rate of \$[ ] excluding GST, up to a total maximum of \$[ ] excluding GST.

If the Supplier reaches the total maximum without completing the Services, the Supplier is required to complete the Services without further payment, unless otherwise agreed in writing.

**OR****Daily Fee Rate**

For each day worked a Daily Fee Rate of \$[ ] excluding GST, up to a total maximum of \$[ ] excluding GST. One day's work is defined as eight hours. If the Supplier works less than a full day the Fee shall be calculated based on the time worked at the agreed Daily Fee Rate i.e. (Daily Fee Rate ÷ 8) x hours worked.

If the Supplier reaches the total maximum without completing the Services, the Supplier is required to complete the Services without further payment, unless otherwise agreed in writing.

**OR****Individual Personnel Rates and/or Approved Personnel Rates**

[Hourly/Daily Fee Rates] for each of the [Approved] Personnel set out below, up to a total maximum of \$[ ] excluding GST, in accordance with the following table of rates.

The Supplier's Approved Personnel are named individuals approved by the Buyer, as stated above. **[delete if there are no Approved Personnel]**

[Approved] Personnel	[Hourly/Daily Fee Rate] (exc GST)	Total hours/days	Total Fees
[Insert Personnel's specialisation or name of Approved Personnel]	[insert either hourly or daily rate as applicable]	[insert total maximum chargeable hours/days]	[insert total maximum charge for Fees]
[Insert Personnel's specialisation or name of Approved Personnel]	[insert either hourly or daily rate as applicable]	[insert total maximum chargeable hours/days]	[insert total maximum charge for Fees]
<b>Total chargeable hours/days</b>		<b>[Insert total]</b>	
<b>Total chargeable Fees (excluding GST)</b>			<b>[insert total]</b>

**Expenses**

Reference Schedule 2  
clause 3

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency.]**

No Expenses are payable.

**OR****Actual and reasonable — general Expenses**

The Buyer will pay the Supplier's actual and reasonable Expenses incurred in delivering the Services up to a total maximum amount of \$[ ] excluding GST provided that:

- the Buyer has given prior written consent to the Supplier incurring the Expense
- the Expense is charged at actual and reasonable cost, and
- the claim for Expenses is supported by GST receipts.

**OR****Actual and reasonable — specified Expenses**

The Buyer will pay the Supplier's actual and reasonable Expenses incurred in delivering the Services up to the total maximum amounts stated below, provided that the claim for Expenses is supported by GST receipts.

Item of Expense	Number of items	Cost (exc GST)	Total max cost (exc GST)
[accommodation]	[number of nights]	[cost per night]	[total cost]
[meals]	[Breakfast, lunch and dinner]	[number days]	[total cost]
[airfares]	[number of return flights]	[cost per flight]	[total cost]
[taxi fares]	n/a	n/a	[total cost]
[mileage for vehicle]	n/a	[amount per item]	[total cost]
[printing costs]	[copies]	n/a	[total cost]
[Subcontractor costs]	n/a	n/a	[total cost]
<b>Total maximum Expenses (excluding GST)</b>			<b>[insert total]</b>

**Daily Allowance**  
Reference Schedule 2  
clause 3

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency]**

No Daily Allowances are payable.

**OR**

The Supplier is entitled to charge the following Daily Allowances:

A fixed Daily Allowance to cover accommodation, meals and incidentals, calculated as stated below. The Supplier is not required to provide receipts for Daily Allowances.

Daily Allowance item	Number of days	Rate	Total
[Accommodation]	[number]	[night rate]	[total cost]
[Breakfast]	[number]	[rate]	[total cost]
[Lunch]	[number]	[rate]	[total cost]
[Dinner]	[number]	[rate]	[total cost]
<b>Total maximum Daily Allowances</b>			<b>[insert total]</b>

**Exchange rate**

**OPTIONAL**  
**Delete if n/a**

**[Use this where you want to fix the exchange rate at time of letting the contract.]**

Where the Supplier is to be paid in a currency other than NZD the Parties agree that the following exchange rate shall apply when calculating the amount due.

[insert one unit of foreign currency] = NZD [insert amount]

**Invoices**

Reference Schedule 2  
Subject to clauses 3 and 11.7

The Supplier must send the Buyer an invoice for the Charges at the following times:

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency.]**

On completion of the Services.

**OR**

At the end of the month, for Services delivered during that month.

**OR**

On the following dates subject to completion of the relevant [Deliverables/Milestones].

	Deliverable/Milestone	Due date	Amount due (exc GST)
	[insert specific Deliverables/Milestones to be achieved]	[insert date for completion of Deliverable/Milestone]	[insert amount payable on completion of the Deliverable/Milestone]
	<b>Example</b>		
	1. Development of training module.	20 April 2012	\$2,500
	2. Delivery of training to 20 staff.	30 May 2012	\$3,000
	3. Evaluation of training outcomes and end of contract report.	30 June 2012	\$1,000
	<b>Total (exc GST)</b>		<b>\$6,500</b>

Address for invoices	Buyer's address	
Reference Schedule 2 clause 3	<b>For the attention of:</b>	
	<b>Physical address:</b>	
	<b>Postal address:</b>	
	<b>Email:</b>	If you allow invoices to be sent by email – otherwise delete
	<b>Fax:</b>	If you allow invoices to be sent by fax – otherwise delete

Insurance	INSURANCE: (clause 8.1 Schedule 2)
Reference Schedule 2 Clause 8.1	It is the Supplier's responsibility to ensure its risks of doing business are adequately covered, whether by insurance or otherwise. The Buyer does not require any specific insurance under this Contract. <b>[and delete the wording below]</b>
	<b>OR</b>
	The Supplier must have the following insurance: <b>[delete what is not applicable]</b>
	a. Public liability insurance of \$[insert figure] <b>OR</b> [three/five/ten] times the total Fees paid and payable under this Contract.
	b. Professional indemnity insurance of \$[insert figure] <b>OR</b> [three/five/ten] times the total Fees paid and payable under this Contract.

Changes to Schedule 2 and additional clause/s	
	<b>[Set out any changes to clauses in Schedule 2 of this Contract. For example, are the time periods set for the mediation/termination processes in clauses 10 and 11 appropriate? If you require no changes, state 'None'. The new clause 17.2 below is added to ensure the Supplier doesn't cause the Buyer to breach the Privacy Act 1993]</b>
	<b>New Clause 17.2:</b>
	"Further to the definition above, 'Confidential Information' of the Buyer includes personal information (as defined in the Privacy Act 1993) collected or held by the Supplier in relation to the Services."

Attachments	
Reference 'Contract documents' described at Page 1	<b>[Describe any attachments to this Contract. This includes any specific code of conduct, health &amp; safety or legislative requirement the Supplier must be aware of in providing the Services. Attach a copy and/or provide web address where the document can be located – otherwise state 'None']</b>

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 8 April 2016 10:49 a.m.  
**To:** s9(2)(g)(i)  
**Subject:** Urgent - Foreign Trusts request from PM

[UNCLASSIFIED]

Hi both

Not sure which of you to contact but I need to talk to Gabs ASAP regarding a request from the PM's office.

There is to be a review of NZ's foreign trust regime and the announcement will be made on Monday. We (Tsy / IR / MoR and MoF's offices) have a particular individual in mind to do the review. They haven't been contacted yet.

I need confirmation that:

- Tsy can hire this person as a contractor to do this review (Person will report to MoF and MoR)
- Tsy has funds to pay. I have no consulting budget in my team and I haven't asked Tim about ESD funding yet (this is all happening very quickly)

Apologies but time is critical so it would be great to hear from Gabs ASAP.

I'm available...

Thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Tim Ng [TSY]  
**Sent:** Friday, 8 April 2016 2:49 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** RE: Urgent - Foreign Trusts request from PM

Hi Suzy – thanks for the heads up.

ESD has some funds that could be used for this if necessary – and I understand the Tsy aggregate position is also favourable (a currently projected substantial underspend for 15/16).

Cheers  
Tim

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 8 April 2016 12:13 p.m.  
**To:** Tim Ng [TSY] <tim.ng@treasury.govt.nz>  
**Subject:** FW: Urgent - Foreign Trusts request from PM

[UNCLASSIFIED]

Hi Tim

As James is meant to be on leave today, I am emailing you directly, rather than him.

Please see below email for background. Current status is that Gabs has agreed to this and has indicated that consulting budget will be available somewhere in the building to pay for this.

Next steps are:

- clarification of whether Tsy or Ministers will commission the report (Paul Kilford discussing options with Ministers)
- contacting the proposed individual to determine his willingness to accept the role
- clarifying scope (MoF's office responsible, we have been consulted)
- clarifying costs (unclear yet and likely to confirmed next week after announcement made)

Review will be requested to finish by 30 June and is unlikely to require much Tax Strategy resources, likely some conversations and report gathering by Steve and I.

Happy to discuss  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

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**Sent:** Friday, 8 April 2016 10:49 a.m.  
**To:** s9(2)(g)(i)  
**Subject:** Urgent - Foreign Trusts request from PM

[UNCLASSIFIED]

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- Tsy has funds to pay. I have no consulting budget in my team and I haven't asked Tim about ESD funding yet (this is all happening very quickly)

Apologies but time is critical so it would be great to hear from Gabs ASAP.

I'm available...

Thanks  
Suzy

**Suzy Morrissey | Team Leader, Tax Strategy | The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** Adam Wood [TSY]  
**Sent:** Wednesday, 20 April 2016 4:04 p.m.  
**To:** Suzy Morrissey [TSY]; Sanja Lee [CASS]  
**Subject:** FW: Memo and Delegation

s9(2)(h)



Cheers

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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s9(2)(h)



s9(2)(h)



**SUB-DELEGATION BY THE SECRETARY TO THE TREASURY – NON-DEPARTMENTAL APPROPRIATION – GOVERNMENT INQUIRY INTO FOREIGN TRUST DISCLOSURE RULES**

**Date:** 2016

**From:** Secretary to the Treasury

**To:** Deputy Secretary, Macroeconomics & Growth  
Director, Economic System  
Manager, International, Financial Markets & Tax Strategy

**Authority:** State Sector Act 1988  
Cabinet Office Circular CO (15) 4

**1. Delegation**

Pursuant to section 28 of the State Sector Act 1988 and Cabinet Office Circular CO (15) 4, the Minister of Finance has delegated to the Secretary to the Treasury the authority to incur expenses and approve expenditure against non-departmental appropriations in Vote Finance in accordance with the limits set out below.

Approvals may only be given up to the amounts specified from time to time in the Estimates or Supplementary Estimates of Appropriations (or within amounts specified by Cabinet or joint Ministers under imprest supply) in Vote Finance against non-departmental appropriations within the following types of appropriation:

*Non-departmental output expenses*

*Benefits and related expenses*

*Borrowing Expenses*

*Other expenses to be incurred by the Crown*

*Capital expenditure*

**2. Sub-Delegation**

Pursuant to section 41(1) of the State Sector Act 1988, I, Gabriel Makhoulf, **SECRETARY TO THE TREASURY** sub-delegate to:

- the **DEPUTY SECRETARY, MACROECONOMICS & GROWTH;**

- the **DIRECTOR, ECONOMIC SYSTEM;**
- the **MANAGER, INTERNATIONAL, FINANCIAL MARKETS & TAX STRATEGY**

(and any person(s) acting in such role from time to time), the authority to approve expenditure against the:

- non-departmental other expense appropriation “Government Inquiry into Foreign Trust Disclosure Rules” in Vote Finance

up to the amounts specified from time to time in the Estimates or Supplementary Estimates of Appropriations (or within amounts specified by Cabinet or joint Ministers under imprest supply).

### **3. No consent to further sub-delegation**

I, Gabriel Makhlouf, **SECRETARY TO THE TREASURY**, **do not** consent to the further sub-delegation of all or any of the authority sub-delegated under this instrument.

**SIGNED** by the **SECRETARY TO THE TREASURY**,  
Gabriel Makhlouf

\_\_\_\_\_  
Signature

In the presence of:

\_\_\_\_\_  
Signature of witness

Name of witness: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Tuesday, 19 April 2016 10:24 a.m.  
**To:** 'John Shewan'; 'Emma Grigg'; 'Carmel Peters'; Steve Mack [TSY]; Suzy Morrissey [TSY]; 'John Nash'; Maraina Hak  
**Cc:** ^IRD: Naomi Ferguson; 'Graham Tubb'; ^Parliament: Danielle Coe  
**Subject:** RE: Gazette notice

Hi again everyone

To confirm, the notice has now been published: <https://gazette.govt.nz/notice/id/2016-go2253>

I have just spoken with John and confirmed with him. Apart from two matters of admin (helping John with the publication of the relevant Inquiries Act order regarding restrictions of information and arranging an interim meeting between John and Ministers) this office will have no further involvement with the inquiry until the report is finalised.

Kind regards  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Paul Kilford  
**Sent:** Tuesday, 19 April 2016 9:37 a.m.  
**To:** 'John Shewan'  
**Cc:** Emma Grigg; Carmel Peters; suzy.morrissey@treasury.govt.nz; steve.mack@treasury.govt.nz; John Nash; Maraina Hak  
**Subject:** RE: Gazette notice

Good morning John

I have just received confirmation from the *Gazette* that they intend to publish the attached notice today. I have been told that it should be on their website by 11am at the latest. The only change to the notice attached will be the date, which will be changed to confirm that the Inquiry can commence today. This means your meeting with officials, scheduled for 11am, should be able to go ahead. I will check the website and call you as soon as the notice has appeared.

As an additional piece of admin, the notice and the Inquiries Act require you to “make an order” giving effect to restrictions of information – in this case it will be an order to preserve the tax secrecy provisions. s9(2)(h)

s9(2)(h) I will be in touch about that at some stage in the week commencing 2 May.

Finally, now that the Gazette notice is finalised, I have an appointment letter signed by Hons English and Woodhouse. The hard copies will be sent to your home address, but do you want a scanned copy before that? If so, is this s9(2)(a) the most appropriate one or would you prefer it was sent to a personal address?



Kind regards  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** John Shewan s9(2)(a)  
**Sent:** Monday, 18 April 2016 5:36 p.m.  
**To:** Paul Kilford  
**Cc:** Emma Grigg; Carmel Peters; [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz); [steve.mack@treasury.govt.nz](mailto:steve.mack@treasury.govt.nz); John Nash; Maraina Hak  
**Subject:** Re: Gazette notice

Thanks for the update Paul.

To Officials attending the meeting I suggest we reschedule to 11am tomorrow, with the reserve time being 11am Wednesday. We will make a call on which day when we hear back from Paul.

If we have to go to Wednesday and 11am does not suit can you find an alternative time that does please Sam. I expect we will need about 2 hours.

Regards

John

Sent from my iPad

On 18/04/2016, at 5:30 pm, Paul Kilford <[Paul.Kilford@parliament.govt.nz](mailto:Paul.Kilford@parliament.govt.nz)> wrote:

John

By way of update, we now have a Gazette notice that has gone through all the necessary legal checks and approved by Ministers. I am trying my best to convince the Gazette office that it should be published tomorrow – although their consistent advice has been that it will be Wednesday. They have told me that the Gazette is published between 10 and 11am on the day of publication. I will chase them up in the morning to confirm which day that will be and let you know as soon as I hear anything. Apologies for the continuing uncertainty.

We will send you both the letter of engagement and the Gazette notice once the latter is available. The only slight changes to the documents have been in the confidentiality sections. As discussed on Friday, this wording is designed to give IR the requisite comfort that:

- Information passed to you retains its tax secret status; and
- You, in your report, cannot breach tax secrecy.

Regards  
Paul

---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Tuesday, 19 April 2016 2:22 p.m.  
**To:** Suzy Morrissey [TSY]  
**Cc:** s9(2)(g)(i) [TSY]  
**Subject:** RE: Appropriation report - foreign trust review

Actually, turns out Hon Joyce has also signed so we don't need to exercise ourselves over timing.

Cheers  
Paul

---

**From:** Suzy Morrissey [TSY] [mailto:Suzy.Morrissey@treasury.govt.nz]  
**Sent:** Tuesday, 19 April 2016 12:40 p.m.  
**To:** Paul Kilford  
**Cc:** s9(2)(g)(i) [TSY]  
**Subject:** RE: Appropriation report - foreign trust review

[UNCLASSIFIED]

I'd agree. Cheers.

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Tuesday, 19 April 2016 11:44 a.m.  
**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; s9(2)(g)(i) [TSY] <[s9\(2\)\(g\)\(i\)@treasury.govt.nz](mailto:s9(2)(g)(i)@treasury.govt.nz)>  
**Subject:** Appropriation report - foreign trust review

Hi

MoF has signed this report, but Hon Joyce's office hasn't had it returned yet. I'll let you know once I hear anything. I assume it's not of crashing urgency given we probably won't be getting any invoices from Mr Shewan in the next week or so?

Cheers  
Paul

**Paul Kilford** | Tax Policy Advisor  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) [TSY] | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Tuesday, 19 April 2016 10:16 a.m.  
**To:** 'Jessica Rowe'; 'Samantha Aldridge'; 'Graham Tubb'  
**Cc:** ^IRD: Naomi Ferguson; 'Carmel Peters'; 'Sarah Simmiss'; Maraina Hak; 'Emma Grigg'; ^IRD: Struan Little; Steve Mack [TSY]; Suzy Morrissey [TSY]; 'John Nash'; 'Anu Anand'  
**Subject:** RE: 2016 Revised report requesting permission to release information John Shewan  
**Attachments:** 19042016100956-0001.pdf

Jess, Sam and Graham

Attached is the signed report – the original will make its way back through the usual channels.

Graham, I neglected to copy you into my email to John Shewan earlier. We are expecting the *Gazette* notice to be published before 11am this morning. I have also let John know that a combination of the notice and Inquiries Act require him to “make an order” giving effect to restrictions of information – in this case to preserve the tax secrecy provisions. This order doesn’t have to be made immediately s9(2)(g)(i)

s9(2)(g)(i) be in touch with John on this issue at some stage in the week commencing 2 May and keep you informed as well.

Kind regards  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Paul Kilford  
**Sent:** Monday, 18 April 2016 3:44 p.m.  
**To:** 'Jessica Rowe'  
**Cc:** Samantha Aldridge; Carmel Peters; Sarah Simmiss; Maraina Hak; Graham Tubb; Emma Grigg; Naomi Ferguson; Struan Little; [steve.mack@treasury.govt.nz](mailto:steve.mack@treasury.govt.nz); [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz); John Nash; Anu Anand  
**Subject:** RE: 2016 Revised report requesting permission to release information John Shewan

Thanks very much.

Paul

---

**From:** Jessica Rowe [<mailto:Jessica.Rowe@ird.govt.nz>]  
**Sent:** Monday, 18 April 2016 3:43 p.m.  
**To:** Paul Kilford  
**Cc:** Samantha Aldridge; Carmel Peters; Sarah Simmiss; Maraina Hak; Graham Tubb; Emma Grigg; Naomi Ferguson; Struan Little; [steve.mack@treasury.govt.nz](mailto:steve.mack@treasury.govt.nz); [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz); John Nash; Anu Anand  
**Subject:** RE: 2016 Revised report requesting permission to release information John Shewan

Hi Paul

As discussed, please see attached.

Cheers  
Sam and Jess

---

**From:** Graham Tubb  
**Sent:** Monday, 18 April 2016 3:40 p.m.  
**To:** Jessica Rowe  
**Cc:** Samantha Aldridge; Carmel Peters; 'Paul Kilford'; Sarah Simmiss  
**Subject:** RE: 2016 Revised report requesting permission to release information John Shewan

Yes, it does. Can you please send straight to Paul as per his last email (as follows) at 15.27

*We have a meeting with the Ministers of Finance and Revenue in 30 minutes and that will be our last convenient opportunity to get the appointment letter signed by the two of them. Can I ask you to please finalise these documents ASAP. Sorry for the rush and thanks for your continuing efforts.*

Graham

---

**From:** Jessica Rowe  
**Sent:** Monday, 18 April 2016 3:37 p.m.  
**To:** Graham Tubb  
**Cc:** Samantha Aldridge; Carmel Peters  
**Subject:** 2016 Revised report requesting permission to release information John Shewan

Hi Graham

Does this look ok?

Thanks  
Sam and Jess

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**Inland Revenue**  
Te Tari Taake

## POLICY AND STRATEGY

**Policy report:**      **Revised report: Request from John Shewan for information from Inland Revenue**

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<b>Date:</b>	18 April 2016	<b>Priority:</b>	<b>High</b>
<b>Security level:</b>	In Confidence	<b>Report no:</b>	IR2016/164

### **Action sought**

---

	<b>Action sought</b>	<b>Deadline</b>
Minister of Finance	<p><b>Note</b> the content of this report.</p> <p><b>Approve</b> the release by Inland Revenue of information of a general nature, being information which does not reveal the identity of any taxpayer, to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.</p> <p><b>Refer</b> a copy of this report to the Minister of Revenue</p>	18 April 2016

### **Contact for telephone discussion (if required)**

---

<b>Name</b>	<b>Position</b>	<b>Telephone</b>	
Samantha Aldridge	Senior Policy Advisor, Inland Revenue	04 890 6019 (wk)	s9(2)(a)

18 April 2016

Minister of Finance  
Minister of Revenue

## **Revised report: Request from John Shewan for information from Inland Revenue**

---

We refer to IR2016/154.

We seek your approval, under section 81(4)(j) of the Tax Administration Act 1994, to provide all relevant, non-taxpayer specific information to John Shewan as part of his review of the foreign trust rules.

The previous report implied that your approval was limited to policy information, but it was intended that the approval would also cover operational information (that does not identify any specific taxpayer).

### **Recommended action**

---

I recommend that you:

- (a) **note** the content of this report.

Noted

- (b) **approve** the release by Inland Revenue of information of a general nature, being information which does not reveal the identity of any taxpayer, to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.

Approved/Not approved

- (c) **Refer** this report to the Minister of Revenue for his information.

Referred

s9(2)(a)

A large rectangular grey box redacting the content of the document.

**Samantha Aldridge**  
Senior Policy Advisor  
Policy and Strategy

A handwritten signature in blue ink, appearing to read "Bill English".

**Hon Bill English**  
Minister of Finance



---

**From:** Graham Tubb <Graham.Tubb@ird.govt.nz>  
**Sent:** Tuesday, 19 April 2016 8:51 a.m.  
**To:** 'Paul Kilford'; Henry Clayton [TSY]; Adam Wood [TSY]  
**Cc:** Maraina Hak; Suzy Morrissey [TSY]; Steve Mack [TSY]; Samantha Aldridge; Sarah Simmiss  
**Subject:** RE: URGENT: Gazette proof for notice: 2016-go2253

Good morning

There are no additional comments from Inland Revenue. Staff are prepared to assist Mr Shewan whenever his inquiry can formally commence. Samantha Aldridge is the nominated liaison.

Graham Tubb  
Group Tax Counsel  
Investigations and Advice  
Inland Revenue Department  
DDI: 04 8901598

---

**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Tuesday, 19 April 2016 8:38 a.m.  
**To:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Graham Tubb  
**Cc:** Maraina Hak; suzy.morrissey@treasury.govt.nz; steve.mack@treasury.govt.nz  
**Subject:** URGENT: Gazette proof for notice: 2016-go2253

Please see below. Legal people, can I please have responses by 9:15 at the latest please.

Kind regards  
Paul

---

**From:** diagazetteonline@cw.govt.nz [mailto:diagazetteonline@cw.govt.nz]  
**Sent:** Tuesday, 19 April 2016 8:35 a.m.  
**To:** Paul Kilford  
**Subject:** Gazette proof for notice: 2016-go2253

**IN CONFIDENCE**

Kia ora Paul,

Please find attached the amended proof; your text has been inserted, and two instances of "Government" have been capitalised.

We will be able to publish between 10am-11am today if you can get back to me by **9.30am today** with confirmation that the notice amendments are correct (with the exception of the highlighted date, which I will change when I am certain we can publish today). If not, we will have to publish tomorrow.

Please also be advised that we have a customs edition today which will be published first, so your notice will most likely come online between 10.15-10.30am, depending on technical issues.

For any future notices, please do get the notice text to us as soon as possible; we are rushing this edition and prefer not to risk errors.

Kind regards,  
Lianna Gonlag, Publisher

*Format and style have been scanned for obvious errors — please check carefully.*

If you have any alterations you can do this by detaching the proof and:

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- using OCR Text Recognition in Adobe Acrobat Pro and copying it to a Word document to make your changes; or
- marking up the hard copy and scan

or by itemising your changes in your return email (for minor changes)

Please contact us if you have any difficulties.

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***New Zealand Gazette Te Kāhiti o Aotearoa***

The Department of Internal Affairs Te Tari Taiwhenua

Phone: +64 4 462 0313

Email: [gazette@dia.govt.nz](mailto:gazette@dia.govt.nz) | [www.gazette.govt.nz](http://www.gazette.govt.nz)

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---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Monday, 18 April 2016 2:36 p.m.  
**To:** Henry Clayton [TSY]; Adam Wood [TSY]  
**Cc:** Steve Mack [TSY]; Suzy Morrissey [TSY]; Emma Grigg (emma.grigg@ird.govt.nz); Samantha Aldridge  
**Subject:** RE: John Shewan  
**Attachments:** 14042016082310-0001.pdf

Hi Henry and Adam

s9(2)(h)

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Steve Mack [TSY] [mailto:Steve.Mack@treasury.govt.nz]  
**Sent:** Monday, 18 April 2016 2:20 p.m.  
**To:** Paul Kilford; Henry Clayton [TSY]; Adam Wood [TSY]; Suzy Morrissey [TSY]; Emma Grigg (emma.grigg@ird.govt.nz); Samantha Aldridge  
**Subject:** RE: John Shewan

[IN-CONFIDENCE]

s9(2)(g)(i)

Paul- John will call you about the time of the Gazetting, ie, it better be early on Wednesday so he has Wednesday to use.

Steve

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Monday, 18 April 2016 2:01 p.m.

**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>;

Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Subject:** John Shewan

Hi

s9(2)(h)



Thanks in advance

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**Inland Revenue**  
Te Tari Taake

## POLICY AND STRATEGY

**Policy report:** Request from John Shewan for information from  
Inland Revenue

---

<b>Date:</b>	14 April 2016	<b>Priority:</b>	<b>High</b>
<b>Security level:</b>	In Confidence	<b>Report no:</b>	IR2016/154

### Action sought

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	Action sought	Deadline
Minister of Finance	<p><b>Note</b> the content of this report.</p> <p><b>Approve</b> the release by Inland Revenue of relevant policy information relating to the foreign trust rules to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.</p> <p><b>Refer</b> a copy of this report to the Minister of Revenue</p>	14 April 2016

### Contact for telephone discussion (if required)

---

Name	Position	Telephone
Carmel Peters	Policy Manager, Inland Revenue	04 890 6139 (wk) s9(2)(a)



14 April 2016

Minister of Finance  
Minister of Revenue

## **Request from John Shewan for information from Inland Revenue**

---

### **Purpose**

---

1. John Shewan has requested Inland Revenue to provide policy and technical documents including reports to Government in relation to the foreign trust rules and related matters. These documents relate to the initial reform of our trust rules in 1988 and all subsequent changes to those rules. The reason Mr Shewan has asked for this information is to assist him with his review of foreign trust disclosure rules.
2. To release the resulting information, Inland Revenue requires approval from the Minister of Finance under section 81(4)(j) of the Tax Administration Act.

### **Background**

---

3. On 11 April 2016 the Government appointed John Shewan to conduct an independent review of disclosure rules covering foreign trusts.
4. The specific request is to assist Mr Shewan with this review.
5. The results are all aggregate figures and do not identify specific taxpayers.
6. Upon release, the information will be used by Mr Shewan to report to the Government by 30 June 2016 on his review of disclosure rules covering foreign trusts.
7. The information requested is covered by section 81 of the Tax Administration Act 1994, which requires all Inland Revenue officers to maintain, and assist in maintaining, the secrecy of all matters relating to the Revenue Acts. This means that we cannot provide the information outside of the Department unless one of the exceptions contained within section 81 applies.

8. We have determined that section 81(4)(j) is the only exception that would allow release of the requested information. This section provides for:

*communicating any information of a general nature, being information which does not reveal the identity of any taxpayer, to any person authorised by the Minister [of Finance] to receive it, where the Minister—*

- (i) is satisfied that it is in the public interest to communicate that information, and that such information is readily available in the department; and*
- (ii) considers that it is reasonable and practicable to communicate that information.*

### **Information intended for release**

---

9. Inland Revenue requests you to authorise Inland Revenue to provide policy and technical documents including reports to Government in relation to the foreign trust rules and related matters. These documents relate to the initial reform of our trust rules in 1988 and all subsequent changes to those rules.

## Recommended action

---

I recommend that you:

- (a) **note** the content of this report.

Noted

- (b) **approve** the release by Inland Revenue of relevant policy information relating to the foreign trust rules to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.

Approved/Not approved

- (c) **Refer** this report to the Minister of Revenue for his information.

Referred

s9(2)(a)



**Carmel Peters**  
Policy Manager  
Policy and Strategy



**Hon Bill English**  
Minister of Finance



---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 5:14 p.m.  
**To:** Paul Kilford; Maraina Hak (MIN)  
**Subject:** FW: Inquiry into Foreign Trust Disclosure Rules

[IN-CONFIDENCE]

Please see conflict of interest declaration below.

Kind Regards  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** John Shewan s9(2)(a)  
**Sent:** Friday, 15 April 2016 5:05 p.m.  
**To:** Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>  
**Subject:** Inquiry into Foreign Trust Disclosure Rules

Dear Suzy

Further to our phone discussion, this is to confirm that I am satisfied that I have no conflicts of interest arising from my directorships, other employment or investments that need to be considered in the context of the Inquiry I have been requested to undertake.

s9(2)(a) is employed as a lawyer at Internal Affairs, and that agency has some responsibility for the AML rules. I do not know if s9(2)(a) has any role in that area. I mention it merely because my work will consider the AML rules and their application to foreign trusts.

Regards

John Shewan

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 4:28 p.m.  
**To:** Paul Kilford  
**Subject:** Draft Appointment Letter - J Shewan.DOCX  
**Attachments:** 3433754\_Draft Appointment Letter - J Shewan.DOCX

[IN-CONFIDENCE]

There was a minor change. Please refer to this one.

Thanks

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**IN-CONFIDENCE**

Mr John Shewan

[ ]

[ ]

[ ]

Dear Mr Shewan

**Appointment to the Government Inquiry into Foreign Trust Disclosure Rules**

As the appointing Ministers for the Government Inquiry into foreign trust disclosure rules (the Inquiry), I am pleased to advise that you are appointed as the sole member of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on [18 April 2016] and expires on 30 June 2016.

***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the New Zealand Gazette.

The attached Gazette notice will be published shortly and you will be provided with a final copy of it as soon as possible. It sets out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and Terms of Reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

***Reporting dates***

The Terms of Reference specify that the Inquiry will provide its final report to appointing Ministers by 30 June 2016. Section 16 of the Act allows a government inquiry to be postponed or temporarily suspended, following consultation with us. If that occurs, we will also give consideration to amending the Terms of Reference regarding the final reporting date.

***Fees***

As the sole member of the Inquiry you will receive a fixed fee of \$1,500 plus GST, if any, per day. Actual and reasonable travel costs will also be paid.


Your appointment as a member of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to termination. There is no obligation to compensate you for the early termination of the Inquiry.

***Resignation and removal***

You may, at any time, resign from office by writing to us as the appointing Ministers.

As appointing Ministers we may, by notice in the Gazette, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

s9(2)(g)(i) & s9(2)(h)



***Conflicts of Interest***

As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest. If at any stage during your term of appointment you feel further conflicts of interest have arisen or may arise, please bring them to our attention.

Treasury will provide administrative support to the Inquiry. If you require any specific information please contact Suzy Morrissey by telephone on 04 917 6292, mobile telephone on s9(2)(a) or by email at [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz).

**IN-CONFIDENCE**

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely

Hon Simon William English  
Minister of Finance

Hon Michael Woodhouse  
Minister of Revenue

---

**From:** Andrew Gane [SSC]  
**Sent:** Friday, 15 April 2016 4:18 p.m.  
**To:** Suzy Morrissey [TSY]  
**Cc:** Peter Martin [SSC]  
**Subject:** FW: Inquiry  
**Attachments:** 2013-09-05 Appointment Letter Miriam Dean QC.pdf; ATT00001.htm; 2116615 \_Appointment letter for Chair of Smith \_ Traynor Inquiry (051214)....pdf; ATT00002.htm; Appointment letter to Mel Smith from Hon Amy Adams to take part in inquiry.pdf; ATT00003.htm; Letter from Hon Paula Bennett to Hon Amy Adams with approval of payment for Mel Smith.pdf; ATT00004.htm

**Importance:** High

[IN-CONFIDENCE]

Good afternoon Suzy

We have been liaising with Adam, regarding this matter. Fees are considered as an exception to the fees framework.

Hei konei ra

Andrew Gane  
Principal Solicitor  
Acting Chief Legal Advisor  
State Services Commission  
DDI: +64 4 495 6774

s9(2)(a)

Fax: +64 4 495 6686

[Andrew.Gane@ssc.govt.nz](mailto:Andrew.Gane@ssc.govt.nz)

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**From:** s9(2)(a)  
**Sent:** Friday, 15 April 2016 4:04 p.m.  
**To:** Andrew Gane [SSC] <[Andrew.Gane@ssc.govt.nz](mailto:Andrew.Gane@ssc.govt.nz)>  
**Subject:** Fwd: Inquiry  
**Importance:** High

Begin forwarded message:

**From:** s9(2)(a)  
**Subject:** Re: Inquiry  
**Date:** 15 April 2016 at 12:32:28 PM NZST  
**To:** "Adam Wood [TSY]" <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Cc:** "Kelley Reeve [SSC]" <[Kelley.Reeve@ssc.govt.nz](mailto:Kelley.Reeve@ssc.govt.nz)>

Hi Adam,

Here are three examples of recent appointment letters: Miriam Dean QC, Hon John Priestley QC, and Mel Smith (split into two letters). We have a checklist of things to consider/work through during the establishment phase of an Inquiry, and would be happy to work through it with you / Mr Shewin if that would be helpful. I will be back in Wellington on Tuesday/Wednesday next week in case you would like to take us up on that.

Best,  
Simon / Kelley



## Office of Hon Nathan Guy

MP for Otaki

Minister for Primary Industries

Minister for Racing

- 5 SEP 2013

Miriam Dean CNZM QC

s9(2)(a)

Dear Ms Dean

### **Appointment to the Government Inquiry into the Whey Protein Concentrate Contamination Incident**

As the appointing Ministers for the Government Inquiry into the Whey Protein Concentrate Contamination Incident (the Inquiry), we are pleased to advise that you are appointed as member and Chair of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on 6 September 2013 and expires on 5 April 2014. The term will be reviewed three months after the Inquiry's establishment. In the event the Inquiry is anticipated to not be in a position to complete its final report by 5 April 2014, the Inquiry will be extended at the time of review. The terms of reference may also be amended, in accordance with section 7 of the Act, to reflect the extension of your term of appointment.

The members of the Inquiry will be Dr Anne Astin PSM, Tony Nowell CNZM and you as Chair.

#### ***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the *New Zealand Gazette*. The Inquiry is to investigate into and report on:

- i) how the potentially contaminated whey protein concentrate entered the New Zealand and international markets, and how this was subsequently addressed; and;
- ii) regulatory and best practice requirements, including the role of regulators and any recognised agency.

#### ***Reporting dates***

The Inquiry's interim report on issue (ii) above is due to us within three months of date of the establishment. A final report on area (ii) and a report on area (i) cannot be completed until after the Ministry for Primary Industries has completed a compliance investigation into the incident, at least to a stage where the investigation cannot be prejudiced by the Inquiry. Section 16 of the Act allows a government inquiry to be temporarily suspended. We will review with you the potential need for a suspension following the completion of the Inquiry's interim report, when the progress of the Ministry for Primary Industries' investigation will be clearer.



The *Gazette* notice will be published shortly and you will be provided with a copy of it as soon as possible. In line with the Act, It will set out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and the terms of reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

### **Fees**

As Chair of the Inquiry you will receive a fee of s9(2)(a). All reasonable costs incurred during the course of the Inquiry will be met by the Department of Internal Affairs (the Department).

Your appointment as Chair of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, the we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to termination. There is no obligation to compensate you in the event of early termination.

### **Resignation and removal**

☉ You may, at any time, resign from office by writing to us as the appointing Ministers. As appointing Ministers we may, by notice in the *Gazette*, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

### **Conflicts of interest**

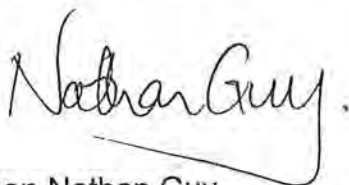
As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest. If at any stage during your term of appointment you feel further conflicts of interest have arisen or may arise, please bring them promptly to our attention.

An initial register of members' declared interests has been prepared for your use in managing all potential conflicts relating to the Inquiry. We have asked that the other members of the Inquiry bring any new or changed interest to your attention in the first instance. You can then decide on an appropriate course of action (including bringing the matter to our attention, if you consider that necessary).

☉ The Department will provide administrative support to the Inquiry. If you require any specific information please contact Con Flinkenberg by telephone on (04) 817 8916, mobile telephone on s9(2)(a) or by email at [con.flinkenberg@dia.govt.nz](mailto:con.flinkenberg@dia.govt.nz).

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely



Hon Nathan Guy  
Minister for Primary Industries



Hon Nikki Kaye  
Minister for Food Safety

Hon Dr John Priestley CNZM QC

s9(2)(a)

Dear Dr Priestley

**Appointment to the Government Inquiry into matters concerning the escape of Phillip John Smith / Traynor**

As the appointing Minister for the Government Inquiry into matters concerning the escape of Phillip John Smith / Traynor (the Inquiry), I am pleased to advise that you are appointed as member and Chair of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on 15 December 2014 and expires on 30 June 2015. The term will be reviewed three months after the Inquiry's establishment. In the event the Inquiry is anticipated to not be in a position to complete its final report by 30 June 2015, the Inquiry will be extended at the time of review. The Terms of Reference may also be amended, in accordance with section 7 of the Act, to reflect the extension of your term of appointment.

The members of the Inquiry will be Simon Murdoch CNZM and you as Chair.

***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the *New Zealand Gazette*. The Inquiry is to investigate into and report on the matters set out in the attached, final Terms of Reference.

The *Gazette* notice should be published shortly and you will be provided with a copy of it as soon as possible. Pursuant to the Act, it will set out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and the Terms of Reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

***Reporting dates***

The Terms of Reference specify that the Inquiry will provide its final report to me by 30 June 2015. Section 16 of the Act allows a government inquiry to be postponed or temporarily suspended, following consultation with me. If that occurs, I will also give consideration to amending the Terms of Reference regarding the final reporting date.

***Fees***

As Chair of the Inquiry you will receive a fee of s9(2)(a) All reasonable costs incurred during the course of the Inquiry will be met by the State Services Commission (SSC).

Your appointment as a member of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to termination. There is no obligation to compensate you for the early termination of the Inquiry.

### ***Resignation and removal***

You may, at any time, resign from office by writing to me as the appointing minister.

As appointing minister I may, by notice in the *Gazette*, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

### ***Conflicts of interest***

As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest. If at any stage during your term of appointment you feel further conflicts of interest have arisen or may arise, please bring them to our attention.

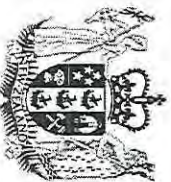
An initial register of members' declared interests will be prepared for your use in managing all potential conflicts relating to the Inquiry. We have asked that the other member of the Inquiry bring any new or changed interest to your attention in the first instance. You can then decide on an appropriate course of action (including bringing the matter to our attention, if you consider that necessary).

SSC will provide administrative support to the Inquiry. If you require any specific information please contact Liz Sinclair, Deputy Commissioner by telephone on (04) 495 6679, mobile telephone on s9(2)(a) or by email at [liz.sinclair@ssc.govt.nz](mailto:liz.sinclair@ssc.govt.nz).

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely

Hon Paula Bennett  
**Minister of State Services**



## Office of Hon Amy Adams

Member of Parliament for Selwyn

Minister of Justice

Minister for Courts

Minister of Broadcasting

Minister for Communications

**10 AUG 2015**

Mr Melwyn Smith CNZM

s9(2)(a)

Dear Mr Smith

**APPOINTMENT AS THE MEMBER OF THE INQUIRY INTO THE MANAGEMENT OF  
TONY DOUGLAS ROBERTSON BY THE DEPARTMENT OF CORRECTIONS AND  
OTHER STATE SECTOR AGENCIES BEFORE AND AFTER HIS RELEASE FROM  
PRISON IN 2013**

On 3 August 2015, Cabinet agreed that the Minister of Justice and Minister of Corrections would be the appointing Ministers for the Government Inquiry into the management of Tony Robertson by the Department of Corrections and other State sector agencies before and after his release from prison on 11 December 2013.

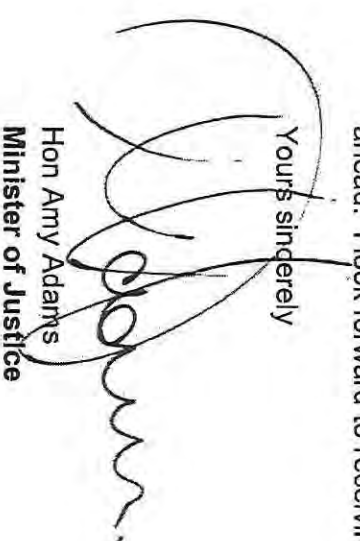
Minister Lotu-liga and I are pleased to appoint you as the member of the Inquiry.

The Terms of Reference for the Inquiry are attached. They have been approved by Cabinet, but are subject to finalisation with the member of the Inquiry. However, I understand from officials that you do not have any concerns with the Terms of Reference, and are comfortable with the proposed reporting date of 30 November 2015. Please let me know as soon as practicable if you have any additional comments as I intend to notify the establishment of the Inquiry and the Terms of Reference in the *Gazette* on Thursday, 13 August.

Thank you for your willingness to undertake this work and for confirming with my officials that there are no conflicts of interest or other matters which would present an impediment to you undertaking the Inquiry.

Please accept my congratulations on your appointment and my best wishes for the task ahead. I look forward to receiving your report.

Yours sincerely

  
Hon Amy Adams  
Minister of Justice





**Office of Hon Paula Bennett**

**MP for Upper Harbour**

Minister of Local Government

Minister for Social Housing

Minister of State Services

Associate Minister of Finance

Associate Minister of Tourism

**RECEIVED**

**11 AUG 2015**

**Office of Hon Amy Adams**

**11 AUG 2015**

Ref: SS 15/827 - MOSS/3822

Hon Amy Adams  
Minister of Justice  
Parliament Buildings  
WELLINGTON

Dear Minister

**Exceptional fee for member of the Tony Robertson Inquiry**

Thank you for your letter of 10 August 2015 regarding the Inquiry into the management of Tony Robertson by the Department of Corrections and other State sector agencies before and after his release from prison on 11 December 2013, and your proposal to pay Mr Melwyn Smith a s9(2)(a) to undertake the Inquiry.

I note your advice that Cabinet has agreed that the fee should be set by the appointing Minister and the Minister of State Services.

I note that the Inquiry requires the analysis of complex issues and a strong understanding of the New Zealand public service, including knowledge and understanding of the New Zealand criminal justice system, as well as experience in analysing complex issues, experience working in the public eye, and high personal integrity.

I accept your judgement that Mr Melwyn Smith has the requisite skills and experience and, therefore, support a s9(2)(a) for Mr Smith to conduct the Tony Robertson Inquiry, noting that the Inquiry is anticipated to take three and a half months.

Yours sincerely

Hon Paula Bennett  
**Minister of State Services**

---

**From:** Henry Clayton [TSY]  
**Sent:** Friday, 15 April 2016 5:08 p.m.  
**To:** Paul.Kilford@parliament.govt.nz  
**Cc:** Suzy Morrissey [TSY]; Steve Mack [TSY]; Adam Wood [TSY]; Jeremy Salmond [TSY]; Graham Tubb  
**Subject:** Inquiry - Gazette notice  
**Attachments:** Gazette for Review of Foreign Trust Disclosure (legal comments).DOCX

[IN-CONFIDENCE]

Hi Paul,

Updated Gazette notice **attached**.

s9(2)(h)



Thanks Paul.

Kind regards,

**Henry Clayton** | Senior Solicitor | **The Treasury**  
Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

## **ESTABLISHMENT OF THE GOVERNMENT INQUIRY INTO FOREIGN TRUST DISCLOSURE RULES**

Pursuant to section 6(3) of the Inquiries Act 2013, The Honourable Simon William English, Minister of Finance, and The Honourable Michael Woodhouse, Minister of Revenue, hereby establish the Government Inquiry into Foreign Trust Disclosure Rules (“**Inquiry**”).

### **Background**

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, in its combined Phase 1 and Phase 2 Peer Review Report of 2013, rated New Zealand “compliant” – the highest possible ranking.

As a result of the recent release of documents known as the ‘Panama Papers’, concerns have been raised about rules covering foreign trusts registered in New Zealand.


Cabinet has decided to initiate a review of New Zealand’s disclosure rules relating to foreign trusts registered in New Zealand to ensure New Zealand’s reputation as a country that cooperates with other jurisdictions to deter abusive tax practices is maintained.

### **Membership**

Mr John Shewan is appointed to and constitutes the Inquiry.

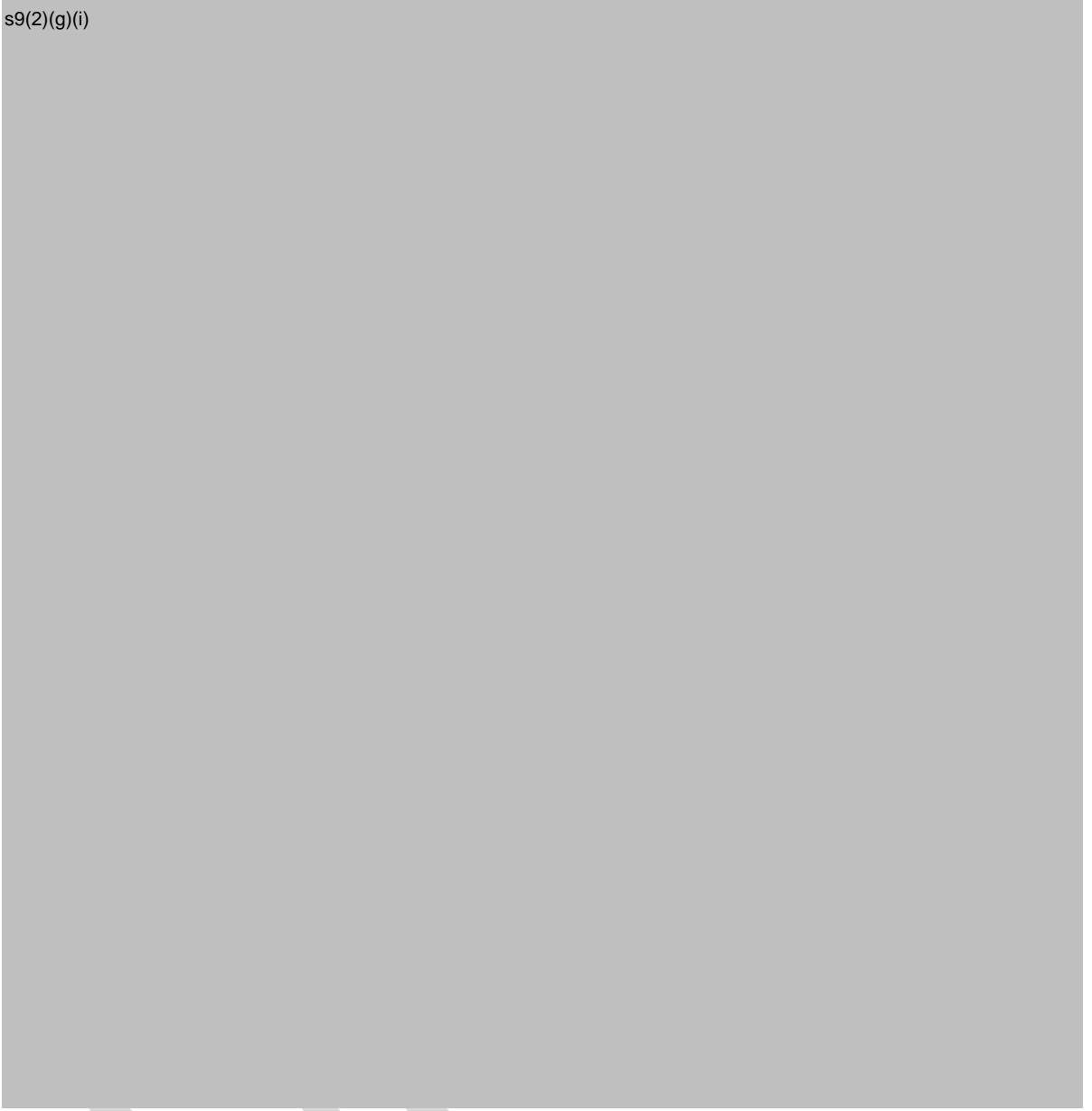
### **Terms of Reference**

s9(2)(g)(i)



**IN-CONFIDENCE**

s9(2)(g)(i)



s9(2)(h)





### **Reporting**

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**.

Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

### **Consideration of Evidence**

The Inquiry may begin considering evidence on and from [DATE OF GAZETTE PUBLICATION].

### **Relevant Department**

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this ... day of April 2016.  
HON SIMON WILLIAM ENGLISH, MINISTER OF FINANCE  
HON MICHAEL WOODHOUSE, MINISTER OF REVENUE

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 3:19 p.m.  
**To:** Paul Kilford  
**Cc:** Steve Mack [TSY]  
**Subject:** Draft Appointment Letter - J Shewan.DOCX  
**Attachments:** 3433754\_Draft Appointment Letter - J Shewan.DOCX

[IN-CONFIDENCE]

Hi Paul

Can you please let me know if you have any comments on this letter or if you would like me to circulate it more broadly for comment?

Many thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**IN-CONFIDENCE**

Mr John Shewan

[ ]  
[ ]  
[ ]

Dear Mr Shewan

**Appointment to the Government Inquiry into Foreign Trust Disclosure Rules**

As the appointing Ministers for the Government Inquiry into foreign trust disclosure rules (the Inquiry), I am pleased to advise that you are appointed as the sole member of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on [18 April 2016] and expires on 30 June 2016.

***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the New Zealand Gazette.

The attached Gazette notice will be published shortly and you will be provided with a final copy of it as soon as possible. It sets out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and Terms of Reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

***Reporting dates***

The Terms of Reference specify that the Inquiry will provide its final report to appointing Ministers by 30 June 2016. Section 16 of the Act allows a government inquiry to be postponed or temporarily suspended, following consultation with us. If that occurs, we will also give consideration to amending the Terms of Reference regarding the final reporting date.

***Fees***

As the sole member of the Inquiry you will receive a fixed fee of \$[TBA] which includes any and all travel or other expenses. [

**Commented [AW1]:** Insert following discussion with SSC re fees framework.

Your appointment as a member of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to termination. There is no obligation to compensate you for the early termination of the Inquiry.

**IN-CONFIDENCE**

***Resignation and removal***

You may, at any time, resign from office by writing to us as the appointing Ministers.

As appointing Ministers we may, by notice in the Gazette, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

***Conflicts of Interest***

[As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest.] If at any stage during your term of appointment you feel further conflicts of interest have arisen or may arise, please bring them to our attention.

Commented [AW[2]: To be confirmed:

Treasury will provide administrative support to the Inquiry. If you require any specific information please contact Suzy Morrissey by telephone on 04 917 6292, mobile telephone on s9(2)(a) or by email at [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz).

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely

Hon Simon William English  
Minister of Finance

Hon Michael Woodhouse  
Minister of Revenue

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 3:37 p.m.  
**To:** Paul Kilford  
**Cc:** Steve Mack [TSY]  
**Subject:** RE: Draft Appointment Letter - J Shewan.DOCX  
**Attachments:** 3433754\_Draft Appointment Letter - J Shewan (2).docx

Apologies Paul – please consider this version which includes the confidentiality wording.

**Suzy Morrissey | Team Leader, Tax Strategy | The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 3:19 p.m.  
**To:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Cc:** Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>  
**Subject:** Draft Appointment Letter - J Shewan.DOCX

[IN-CONFIDENCE]

Hi Paul

Can you please let me know if you have any comments on this letter or if you would like me to circulate it more broadly for comment?

Many thanks  
Suzy

**Suzy Morrissey | Team Leader, Tax Strategy | The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**IN-CONFIDENCE**

Mr John Shewan

[ ]  
[ ]  
[ ]

Dear Mr Shewan

**Appointment to the Government Inquiry into Foreign Trust Disclosure Rules**

As the appointing Ministers for the Government Inquiry into foreign trust disclosure rules (the Inquiry), I am pleased to advise that you are appointed as the sole member of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on [18 April 2016] and expires on 30 June 2016.

***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the New Zealand Gazette.

The attached Gazette notice will be published shortly and you will be provided with a final copy of it as soon as possible. It sets out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and Terms of Reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

***Reporting dates***

The Terms of Reference specify that the Inquiry will provide its final report to appointing Ministers by 30 June 2016. Section 16 of the Act allows a government inquiry to be postponed or temporarily suspended, following consultation with us. If that occurs, we will also give consideration to amending the Terms of Reference regarding the final reporting date.

***Fees***

As the sole member of the Inquiry you will receive a fixed fee of \$[TBA] which includes any and all travel or other expenses. [ ]

**Commented [AW1]:** Insert following discussion with SSC re fees framework.

Your appointment as a member of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to termination. There is no obligation to compensate you for the early termination of the Inquiry.


**IN-CONFIDENCE**

***Resignation and removal***

You may, at any time, resign from office by writing to us as the appointing Ministers.

As appointing Ministers we may, by notice in the Gazette, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

s9(2)(g)(i) & s9(2)(h)



***Conflicts of Interest***

As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest. If at any stage during your term of appointment you feel further conflicts of interest have arisen or may arise, please bring them to our attention.

Treasury will provide administrative support to the Inquiry. If you require any specific information please contact Suzy Morrissey by telephone on 04 917 6292, mobile telephone on s9(2)(a) or by email at [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz).

**IN-CONFIDENCE**

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely

Hon Simon William English  
Minister of Finance

Hon Michael Woodhouse  
Minister of Revenue



---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 29 April 2016 3:23 p.m.  
**To:** s9(2)(g)(i)  
**Subject:** FW: John Shewan

For your records on contact

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** Steve Mack [TSY]  
**Sent:** Monday, 18 April 2016 2:20 p.m.  
**To:** Paul Kilford <Paul.Kilford@parliament.govt.nz>; Henry Clayton [TSY] <Henry.Clayton@treasury.govt.nz>; Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>; Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>; Emma Grigg (emma.grigg@ird.govt.nz) <emma.grigg@ird.govt.nz>; Samantha Aldridge <Samantha.Aldridge@ird.govt.nz>  
**Subject:** RE: John Shewan

[IN-CONFIDENCE]

s9(2)(g)(i)

Paul- John will call you about the time of the Gazetting, ie, it better be early on Wednesday so he has Wednesday to use.

Steve

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]  
**Sent:** Monday, 18 April 2016 2:01 p.m.  
**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>; Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>  
**Subject:** John Shewan

Hi

s9(2)(h)

Thanks in advance  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

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**From:** Sara Brownlie [CASS]  
**Sent:** Friday, 15 April 2016 3:04 p.m.  
**To:** Emma Hicks [TSY]; Bill Moran [TSY]; Tim Ng [TSY]  
**Cc:** Alida McKay [CASS]; Adam Wood [TSY]; Jeremy Salmond [TSY]; Suzy Morrissey [TSY]; Timothy Roper [TSY]; Ellie Pritchard [CASS]  
**Subject:** Government Inquiry into Foreign Trusts

[UNCLASSIFIED]

Hi

This email is to brief you on the financial implications of the establishment of the Government Inquiry into Foreign Trusts.

Summary: Propose a transfer from Departmental Policy Advice – Finance appropriation to a new appropriation Non Departmental Other Expense: Government Inquiry into Foreign Trusts.

Detail:

As this is a government inquiry, Finance (after discussions with the Legal and Tax team) have advised that a new non departmental appropriation needs to be established for estimated costs for 2015/16.

Given budget moratorium starts on 25 April and after that date there is not further opportunity to amend the 2015/16 budget, Finance's recommendation is that the appropriation is set at a conservative level to avoid the risk of unappropriated expenditure. The tax team have advised they think that \$150k will be sufficient.

On that basis, Finance have drafted financial recommendations which have been provided to the tax team to go over in a Treasury Report to Minister English and Minister Joyce. These still need to be reviewed and approved by Tim Roper, Treasury's Vote Analyst.

This has been discussed with Emma, Suzy, Adam, Jeremy, Tim and Alida.

Regards  
Sara

**Sara Brownlie | Chief Financial Officer | Central Agencies Shared Services**

Central Agencies Shared Services (CASS) delivers services to the Department of Prime Minister and Cabinet, State Services Commission and the Treasury

Tel: +64 4 917 6083 | Mob s9(2)(a)

[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)

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**From:** Peter Martin [SSC]  
**Sent:** Friday, 15 April 2016 3:09 p.m.  
**To:** Juanita TeKani [SSC]; Andrew Gane [SSC]  
**Cc:** Suzy Morrissey [TSY]  
**Subject:** RE: Fee setting

Andrew wasn't around, but I asked his team to pass on that Suzy needed to talk. Their advice was like yours – the Smith/Traynor enquiry contracted the members, and we don't think any other fee-setting process was used.

Peter

Peter Martin  
Assistant Commissioner  
State Services Commission  
DDI: +64 4 495 6629  
Fax: +64 4 495 6686  
peter.martin@ssc.govt.nz  
[www.ssc.govt.nz](http://www.ssc.govt.nz) | [newzealand.govt.nz](http://newzealand.govt.nz)

---

**From:** Juanita TeKani [SSC]  
**Sent:** Friday, 15 April 2016 3:01 p.m.  
**To:** Peter Martin [SSC] <peter.martin@ssc.govt.nz>  
**Subject:** FW: Fee setting

[UNCLASSIFIED]

Did you manage to talk to Andrew G?

Juanita Te Kani  
Manager, Executive Management Services  
Executive Management and Policy Group  
State Services Commission  
DDI: +64 4 495 6630  
Mob: s9(2)(a)  
Fax: +64 4 495 6702  
[Juanita.TeKani@SSC.govt.nz](mailto:Juanita.TeKani@SSC.govt.nz)  
[www.ssc.govt.nz](http://www.ssc.govt.nz) | [newzealand.govt.nz](http://newzealand.govt.nz)

New Zealand's State Services Commission: Leading a State sector New Zealand is proud of

.....  
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---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 2:49 p.m.  
**To:** Juanita TeKani [SSC] s9(2)(g)(i)  
**Subject:** Fee setting

[UNCLASSIFIED]

Hi Juanita

You may have heard from Peter Martin that I would very much like to talk to you as soon as you are free about an urgent fee setting matter.

My apologies for the urgency but I look forward to hearing from you.

Kind Regards

Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 12:57 p.m.  
**To:** Tim Ng [TSY]; James Beard [TSY]  
**Subject:** RE: Review of foreign trust disclosure rules

FYI

I am putting up a TR today requesting a new appropriation be established, to be funded from Tim's budget (previously agreed to spend on the review) so fiscally neutral, but required because Tsy doesn't have an appropriation that would fund the membership costs of the Inquiry.

A Gazette Notice and a Letter of Appointment are also being drafted (legal / other agencies all involved) and I'm seeing Ashley soon on fee setting.

Happy to discuss if required.

Thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Tim Ng [TSY]  
**Sent:** Thursday, 14 April 2016 5:05 p.m.  
**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; James Beard [TSY] <[James.Beard@treasury.govt.nz](mailto:James.Beard@treasury.govt.nz)>  
**Subject:** RE: Review of foreign trust disclosure rules

I'll call you now  
cheers

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 4:35 p.m.  
**To:** James Beard [TSY] <[James.Beard@treasury.govt.nz](mailto:James.Beard@treasury.govt.nz)>; Tim Ng [TSY] <[tim.ng@treasury.govt.nz](mailto:tim.ng@treasury.govt.nz)>  
**Subject:** Review of foreign trust disclosure rules

[IN-CONFIDENCE]

Hi both

The review will be a statutory review under the Enquiries Act.

Tsy will fund the review and provide some resource (Steve Mack will attend consultations undertaken by the reviewer with external parties). With the s9(2)(a) coming on board this is just about manageable but happy to discuss.

I am finalising the contract with legal. OE were enquiring about funding so Tim, I have passed on your comment that ESD could fund, but the amount of cost is to be confirmed and I would like to talk to one of you about. Can someone call me today / tonight about that? Thanks s9(2)(a)

Thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Sara Brownlie [CASS]  
**Sent:** Friday, 15 April 2016 1:28 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** RE: Question

That is fine. Your TR needs to go to MOF and Joyce ( who holds Delegation as MOF for Vote Finance matters)

**Sara Brownlie | Chief Financial Officer | Central Agencies Shared Services**

Central Agencies Shared Services (CASS) delivers services to the Department of Prime Minister and Cabinet, State Services Commission and the Treasury

Tel: +64 4 917 6083 | Mob s9(2)(a)

[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)

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---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 1:17 p.m.  
**To:** Sara Brownlie [CASS] <[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)>  
**Subject:** Question

[UNCLASSIFIED]

Hi Sara

The Cab Minute delegating authority to selected Ministers does not refer to funding at all (see **attached**). Is this an issue?

Regards  
Suzy

**Suzy Morrissey | Team Leader, Tax Strategy | The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 12:01 p.m.  
**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>  
**Cc:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Subject:** RE: Draft memo

We are happy with your amendments and with the [brackets] being removed and including that text.

Can we distribute to IR and Paul Kilford for review now?

**Suzy Morrissey | Team Leader, Tax Strategy | The Treasury**



Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Henry Clayton [TSY]

**Sent:** Friday, 15 April 2016 11:47 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Cc:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>

**Subject:** RE: Draft memo

Hi all

Here is the update Gazette notice

[Gazette for Review of Foreign Trust Disclosure \(legal comments\) \(Treasury:3433007\)](#) [Add to worklist](#)

s9(2)(h)

Henry

**Henry Clayton** | Senior Solicitor | **The Treasury**

Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Suzy Morrissey [TSY]

**Sent:** Friday, 15 April 2016 11:24 a.m.

**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>

**Subject:** FW: Draft memo

[IN-CONFIDENCE]

Paul's memo to which he referred on the phone...

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 11:22 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Subject:** Draft memo

Hi

Here is the memo with the IRD confidentiality wording imbedded in the terms of reference. IRD has pointed out that s9(2)(h)

s9(2)(h)

s9(2)(h)

Also, the “All members of the inquiry” wording will probably need to change to reflect the fact that there is just one inquirer.

They would also want to see this confidentiality wording replicated in whatever terms of engagement document is finally produced for Mr Shewan to sign.

Please email back with track changes as soon as you can (and call to discuss) and then I will circulate more widely.

Cheers

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 15 April 2016 12:20 p.m.  
**To:** Steve Mack [TSY]  
**Cc:** Adam Wood [TSY]; Suzy Morrissey [TSY]; Henry Clayton [TSY]  
**Subject:** RE: Draft memo

I've just had a call from Cab Office, who confirmed that the "review" wording in the minute was deliberately drafted as being broad enough to cover a statutory review under the Inq Act if that was the preference of the delegated Ministers.

Also, apparently Jodie at DIA only works until 2pm today, if you haven't called her already...

Cheers  
Paul

---

**From:** Paul Kilford  
**Sent:** Friday, 15 April 2016 12:13 p.m.  
**To:** 'Steve Mack [TSY]'  
**Cc:** 'Adam.Wood@treasury.govt.nz'; 'Suzy Morrissey [TSY]'; Henry Clayton [TSY]  
**Subject:** RE: Draft memo

I thought it should be in at least the appointment letter and the Gazette notice. My view is that the latter seems important because we want to try to tap into s15(3) of the Inq Act by making the restrictions part of "the instrument that establishes an inquiry".

Paul

---

**From:** Steve Mack [TSY] [<mailto:Steve.Mack@treasury.govt.nz>]  
**Sent:** Friday, 15 April 2016 12:07 p.m.  
**To:** Paul Kilford  
**Subject:** RE: Draft memo

s9(2)(h)

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]  
**Sent:** Friday, 15 April 2016 12:05 p.m.  
**To:** Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>  
**Subject:** RE: Draft memo

Just sent this to Suzy. Yes, confidentiality should be included everywhere!

---

**From:** Steve Mack [TSY] [<mailto:Steve.Mack@treasury.govt.nz>]  
**Sent:** Friday, 15 April 2016 11:58 a.m.  
**To:** Paul Kilford  
**Subject:** FW: Draft memo

Paul-

s9(2)(h)

And can we see the Cabinet minute please?

Thanks

---

**From:** Henry Clayton [TSY]

**Sent:** Friday, 15 April 2016 11:47 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Cc:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>

**Subject:** RE: Draft memo

Hi all

Here is the update Gazette notice

[Gazette for Review of Foreign Trust Disclosure \(legal comments\) \(Treasury:3433007\)](#) [Add to worklist](#)

s9(2)(h)

Henry

**Henry Clayton** | Senior Solicitor | **The Treasury**

Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Suzy Morrissey [TSY]

**Sent:** Friday, 15 April 2016 11:24 a.m.

**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>

**Subject:** FW: Draft memo

[IN-CONFIDENCE]

Paul's memo to which he referred on the phone...

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 11:22 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Subject:** Draft memo

Hi

Here is the memo with the IRD confidentiality wording imbedded in the terms of reference. IRD has pointed out

s9(2)(h)

s9(2)(h)

s9(2)(h)

Also, the “All members of the inquiry” wording will probably need to change to reflect the fact that there is just one inquirer.

They would also want to see this confidentiality wording replicated in whatever terms of engagement document is finally produced for Mr Shewan to sign.

Please email back with track changes as soon as you can (and call to discuss) and then I will circulate more widely.

Cheers

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings. PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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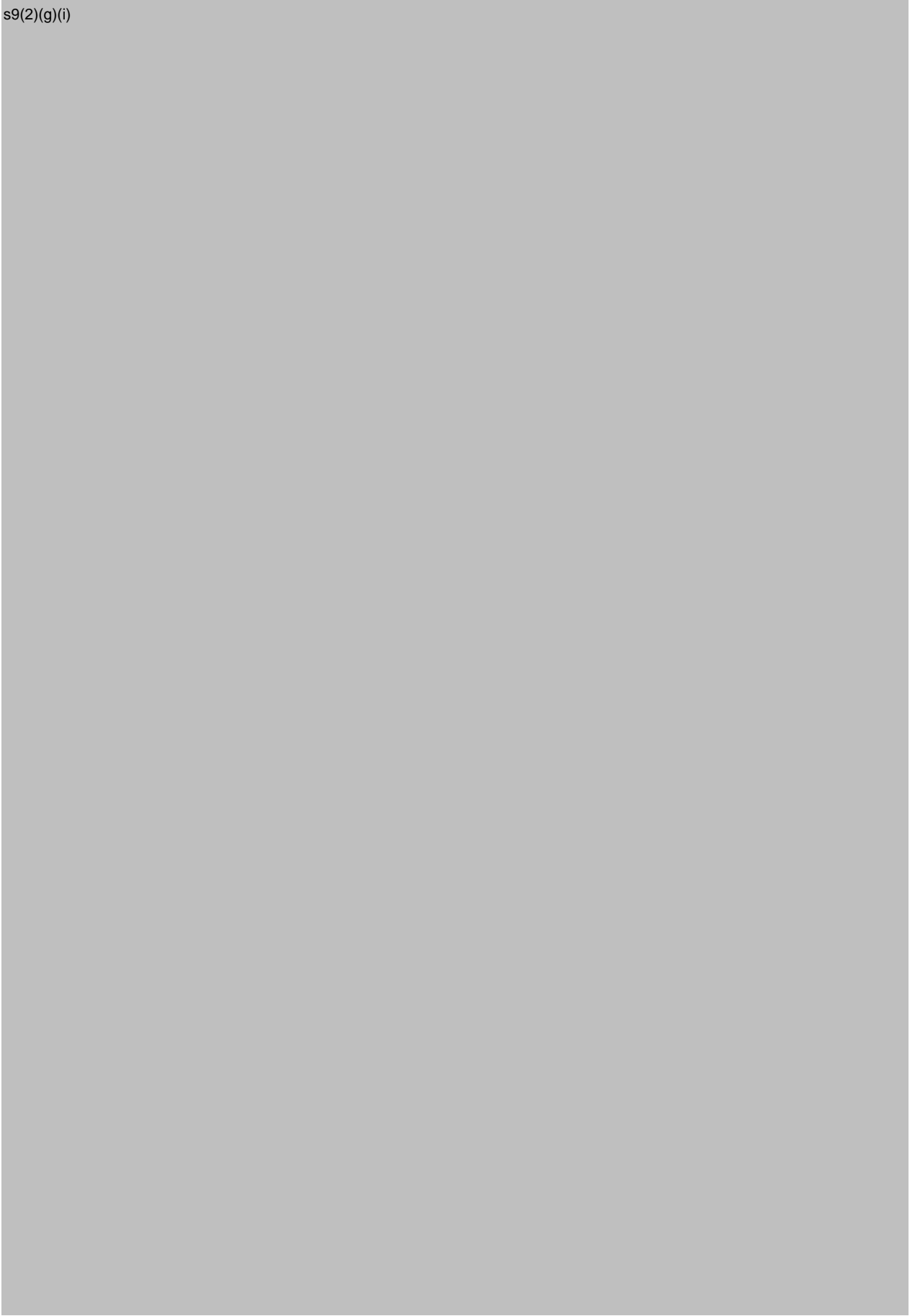
**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 12:21 p.m.  
**To:** Paul Kilford; Emma Grigg (emma.grigg@ird.govt.nz)  
**Cc:** Samantha Aldridge; Suzy Morrissey [TSY]  
**Subject:** Draft Gazette Notice  
**Attachments:** 3433007\_3.docx

[IN-CONFIDENCE]

Let us know if you have any comments.

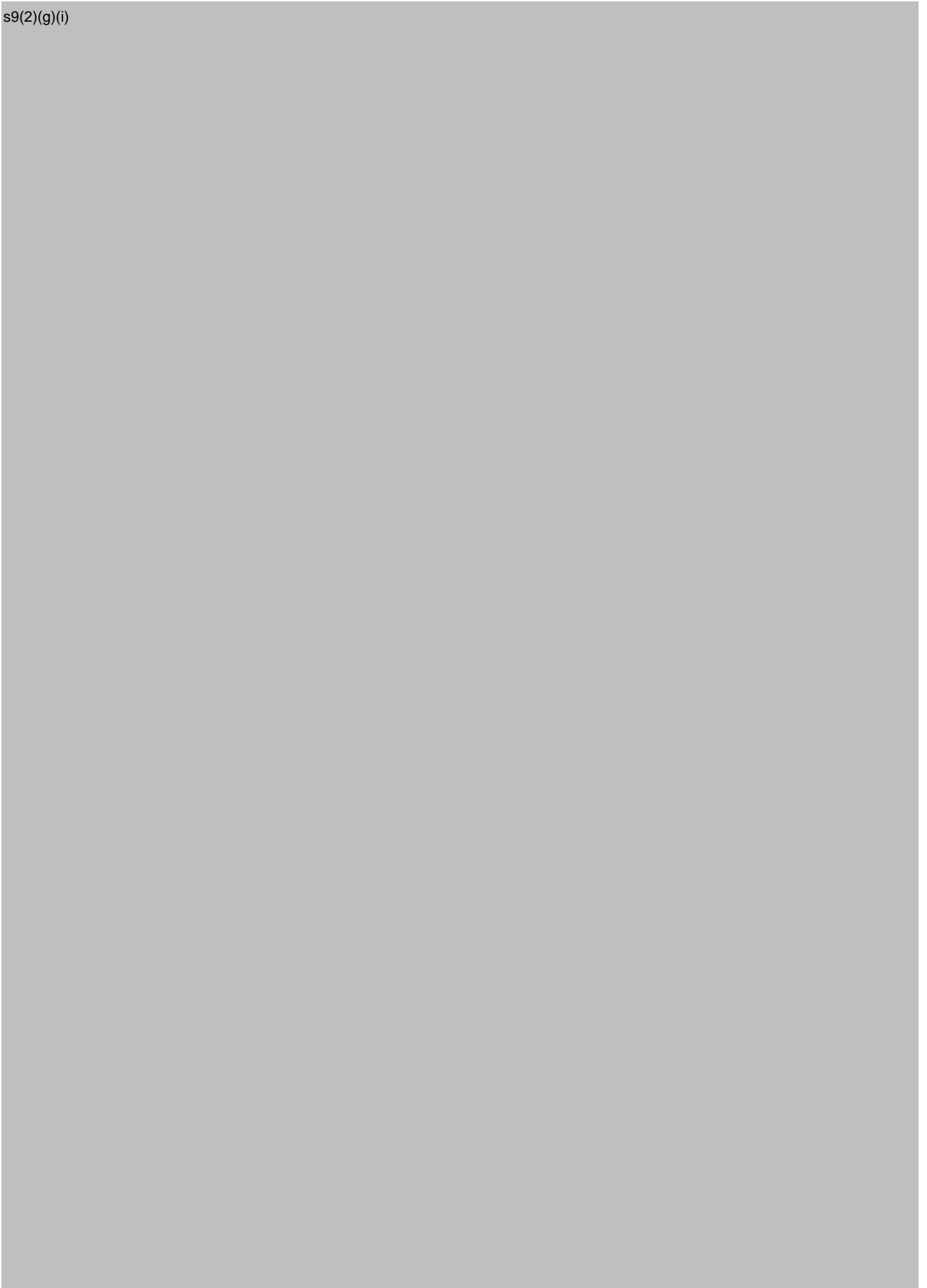
**IN-CONFIDENCE**

s9(2)(g)(i)




**IN-CONFIDENCE**

s9(2)(g)(i)





s9(2)(g)(i)



DRAFT

---

**From:** Adam Wood [TSY]  
**Sent:** Friday, 15 April 2016 12:48 p.m.  
**To:** Suzy Morrissey [TSY]; Steve Mack [TSY]; Henry Clayton [TSY]; Sara Brownlie [CASS]  
**Cc:** Jeremy Salmond [TSY]  
**Subject:** FW: Inquiry  
**Attachments:** 2013-09-05 Appointment Letter Miriam Dean QC.pdf; ATT00001.htm; 2116615 \_Appointment letter for Chair of Smith \_ Traynor Inquiry (051214)....pdf; ATT00002.htm; Appointment letter to Mel Smith from Hon Amy Adams to take part in inquiry.pdf; ATT00003.htm; Letter from Hon Paula Bennett to Hon Amy Adams with approval of payment for Mel Smith.pdf; ATT00004.htm

**Importance:** High

[IN-CONFIDENCE]

FYI – I could not get hold of anyone at DIA that could give me with some example appointment letters, but I have managed to track down someone at SSC that could help.

I will review these now...

Cheers

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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**From:** s9(2)(a)  
**Sent:** Friday, 15 April 2016 12:33 p.m.  
**To:** Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>  
**Cc:** Kelley Reeve [SSC] <Kelley.Reeve@ssc.govt.nz>  
**Subject:** Re: Inquiry  
**Importance:** High

Hi Adam,

Here are three examples of recent appointment letters: Miriam Dean QC, Hon John Priestley QC, and Mel Smith (split into two letters). We have a checklist of things to consider/work through during the establishment phase of an Inquiry, and would be happy to work through it with you / Mr Shewin if that would be helpful. I will be back in Wellington on Tuesday/Wednesday next week in case you would like to take us up on that.

Best,  
Simon / Kelley

---

**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 12:06 p.m.  
**To:** Emma Grigg (emma.grigg@ird.govt.nz); Samantha Aldridge  
**Cc:** Suzy Morrissey [TSY]  
**Subject:** John - timing of meeting John and getting evidence.

[IN-CONFIDENCE]

Emma / Sam-

s9(2)(h)



We'll send the draft Gazette notice soon for your comment.

Thanks

Steve

---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 15 April 2016 11:22 a.m.  
**To:** Suzy Morrissey [TSY]; Steve Mack [TSY]  
**Subject:** Draft memo  
**Attachments:** Memorandum - Tax review.docx

Hi

Here is the memo with the IRD confidentiality wording imbedded in the terms of reference. s9(2)(h)

s9(2)(h)

s9(2)(h)

Also, the “All members of the inquiry” wording will probably need to change to reflect the fact that there is just one inquirer.

They would also want to see this confidentiality wording replicated in whatever terms of engagement document is finally produced for Mr Shewan to sign.

Please email back with track changes as soon as you can (and call to discuss) and then I will circulate more widely.

Cheers  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

**Memorandum to:**

Rt Hon John Key – Prime Minister  
Hon Chris Finlayson – Attorney-General  
Hon Michael Woodhouse – Minister of Revenue

**From**

Hon Bill English – Minister of Finance

***Background***

On 11 April 2016, Cabinet (CAB-16-MIN-0158):


1. agreed that that an independent review be undertaken of the disclosure rules covering foreign trusts registered in New Zealand and any related matters that may arise, and
2. noted that it is proposed that John Shewan be appointed to undertake the review.

This group of Ministers was authorised to finalise:

1. the terms of reference for an independent review of the foreign trust disclosure rules and any related matters that arise; and
2. the form of the review.

***Terms of reference for the review***

s9(2)(ba)(i)



---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 11:20 a.m.  
**To:** s9(2)(g)(i)  
**Subject:** RE: semi-update on review

Please advise Gabs that government has decided this should be an inquiry under the Inquiries Act rather than a review.

The necessary paperwork is currently being prepared (including by Tsy). A formal appointment will be made and it will be gazetted next week under a special edition.

Happy to discuss if required  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** s9(2)(q)(i)  
**Sent:** Thursday, 14 April 2016 1:11 p.m.  
**To:** Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>  
**Subject:** RE: semi-update on review

Thanks Suzy. I checked with Gabs and he hasn't got any fundamental disagreement with that.

He did just ask though whether we've worked out where the money will come from yet? (i.e. has Tim or James identified any funding and if not has Tim raised it with his DS?)

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 12:06 p.m.  
**To:** s9(2)(g)(i)  
**Subject:** semi-update on review

[UNCLASSIFIED]

Hi s9(2)(g)(i)

There's a meeting this afternoon with DPMC that should resolve the issue. These are the rates which will act as a guide but a fixed fee (reflecting this guidance) is also possible. The fee would include travel.

I think the likely amount would be s9(2)(g)(i) TBC. Are Tsy still ok with this amount? The expectation is still that Ministers will commission but Tsy will pay. If there's feedback on that we should pass on to Paul directly.

Thanks  
Suzy

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Tier	Level 1	Level 2	Level 3	Level 4	Level 5
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**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Thursday, 14 April 2016 4:15 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** Gazette notice  
**Attachments:** 14042016161446-0001.pdf

Here is the example I was given (with my value-add!).

Cheers  
Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---



## Establishment of the Government Inquiry into the Whey Protein Concentrate Contamination Incident

Pursuant to section 6(3) of the Inquiries Act 2013, I, The Honourable Nathan Guy, Minister for Primary Industries, and I, The Honourable Nikki Kaye, Minister for Food Safety, hereby establish the Government Inquiry into the Whey Protein Concentrate Contamination Incident ("Inquiry").

### Membership

The following persons are appointed to and constitute the Inquiry:

- Miriam Rose Dean, CNZM QC (chairperson);
- Dr Anne Marie Astin, PSM (member); and
- Anthony John Nowell, CNZM (member).

### Terms of Reference

#### Background

New Zealand has a reputation as a credible and trusted supplier of safe and suitable food to both domestic and international markets. This well-deserved reputation is a vital element in the continuing growth and productivity of the food industry.

Exporting food is critical to New Zealand's economy, with the food industry making up half of New Zealand's merchandise export value. New Zealand has an excellent track record of exporting safe food, and our food safety system is considered world-leading.

The whey protein concentrate ("WPC") contamination incident risks damaging the reputation we have worked hard to gain.

This Inquiry is about strengthening an already strong system, to ensure that New Zealand food products retain their status as among the world's safest and most desired.

#### Appointment and Order of Reference

This Inquiry will inquire into and report (making any recommendation it thinks fit) upon the following:

*Inquiry into how the potentially contaminated whey protein concentrate entered the New Zealand and international markets, and how this was subsequently addressed*

- (a) In relation to this incident of potential contamination of whey protein concentrate at Fonterra's Hautapu plant in 2012:
  - (i) The causes of this incident;
  - (ii) the practices used at each stage, from sourcing the raw material to products containing the whey protein concentrate entering the market;
  - (iii) the timeline of steps taken by Fonterra, and any other party, with regard to testing and reporting the potential contamination of whey protein concentrate;
  - (iv) the implementation of contingency plans for food safety incidents by Fonterra;
  - (v) Fonterra's history as a significant manufacturer and exporter of safe dairy products; and
  - (vi) an examination of the response of the regulator (that is, what actually happened).

This part of the Inquiry will not be undertaken until the Ministry for Primary Industries' (MPI) compliance investigation is completed, subject to any views the Inquiry reaches on the application of section 16 of the Inquiries Act 2013.

This part of the Inquiry will rely on findings of fact from the MPI compliance investigation and supplement this as required.

#### *Inquiry into regulatory and best practice requirements*

- (b) The requirements of any Acts, Regulations, or other laws, or of any recognised practices, that govern the following aspects of food safety against the background of this incident in relation to the dairy industry, including how those legal and practice requirements interact with each other:
  - (i) Quality and integrity of product testing;
  - (ii) traceability requirements, including the requirements across the supply chain to retailers;
  - (iii) reporting and risk management decision-making;
  - (iv) implementation of food safety standards;
  - (v) contingency plans for food safety and food quality;
  - (vi) role of regulators, including any recognised agency; and
  - (vii) potentially affected products, including infant formula.
- (c) How the matters referred to in paragraphs (b)(i)–(vii) above compare with similar matters in other comparable jurisdictions.

#### *Matters Upon or for Which Recommendations Required*

The Inquiry will report on and make any recommendations it considers fit on:

- (a) the adequacy of legal and best practice requirements with regard to product testing, traceability, reporting, implementation of food safety standards, contingency planning and role of regulators (refer to paragraphs (b)(i)–(vii) and paragraph (c) above);
- (b) any legal or regulatory changes or additions necessary and desirable to prevent or minimise similar incidents; and
- (c) any changes or additions to operational practices for product testing, traceability, reporting, implementation of food safety standards, contingency planning and response of regulators, to address the lessons from this incident.

#### *Exclusions From Inquiry and Scope of Recommendations*

The Inquiry is not to inquire into, determine, or report in an interim or final way, or otherwise prejudice any of the following matters:

- (a) The Ministry for Primary Industries' investigation into the compliance with any legal or practice requirements;
- (b) whether any questions of liability arise; and
- (c) the legislative structure of the New Zealand dairy industry.

#### *Definitions*

"Practice" or "practices" includes, without limitation, each of the following:

- (a) Decision-making;
- (b) procedures;
- (c) processes;
- (d) services; and
- (e) systems.

#### *Reporting Sequence*

The Inquiry is to report findings and opinions, together with recommendations, required and otherwise, that it thinks fit to make in respect of them, to the appointing Ministers in writing in the following sequence:

(a) Inquiry into regulatory and best practice requirements:

(i) An interim report is to be provided by no later than three months after notification of the Government Inquiry in the *New Zealand Gazette*;

(ii) a final report is to be provided at a date to be specified by the appointing Ministers, following the conclusion of the Ministry for Primary Industries' investigation and any subsequent Court action;

(b) Inquiry into how the potentially contaminated whey protein concentrate entered the New Zealand and international markets, and how this was subsequently addressed, at a date to be specified by the appointing Ministers, following the conclusion of the Ministry for Primary Industries' investigation and any subsequent Court action.

***Consideration of Evidence***

The Inquiry may begin considering evidence on and from **12 September 2013**.

Dated at Wellington this 10th day of September 2013.

HON NATHAN GUY, Minister for Primary Industries.

HON NIKKI KAYE, Minister for Food Safety.

go5757

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**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Wednesday, 13 April 2016 9:55 a.m.  
**To:** Suzy Morrissey [TSY]; s9(2)(g)(i) Emma Grigg; Maraina Hak; Steve Mack [TSY]  
**Cc:** ^AssocMOF: Kenny Clark; 'Carmel Peters'; Samantha Aldridge  
**Subject:** Review

Hi everyone

Who would have thought that setting up an independent review would involve so much admin! I have a meeting with DPMC and the Cabinet Office tomorrow to try to get to the bottom of how these things usually work. It appears there is some precedent for DIA to be involved in 'centralised' reviews in a secretariat capacity.

In any event, for the purposes of that meeting, it would be good if I could find out what the likely external Budget for the review will be (i.e., what John is planning on charging us). I don't know if this will have any knock-on effects in terms of the formality of proceedings, but we need to at least let the delegated group of Ministers know what they are dealing with so decisions can be made. I can make this call if necessary, if someone could get me John's number, or else I would be happy to delegate to Treasury if you all think that is more appropriate. Views welcome.

Cheers  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings. PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

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**From:** Suzy Morrissey [TSY]  
**Sent:** Monday, 11 April 2016 10:23 a.m.  
**To:** s9(2)(g)(i)  
**Subject:** FW: Final scope document  
**Attachments:** Foreign trusts scope document (2).docx

[UNCLASSIFIED]

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Friday, 8 April 2016 1:25 p.m.  
**To:** Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>; Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>; 'Emma Grigg' <Emma.Grigg@ird.govt.nz>; 'Carmel Peters' <Carmel.Peters@ird.govt.nz>  
**Cc:** Maraina Hak <Maraina.Hak@parliament.govt.nz>  
**Subject:** Final scope document

Thanks for your feedback. It has been incorporated into this draft (changes are marked) along with some comments from PMO. Unless I hear violent objections, a clean version of this document will be the final.

Cheers  
Paul

**Paul Kilford** | Tax Policy Advisor

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** Steve Mack [TSY]  
**Sent:** Monday, 18 April 2016 1:41 p.m.  
**To:** Adam Wood [TSY]; Henry Clayton [TSY]  
**Subject:** Shewan

**Categories:** NZ First OIA

[IN-CONFIDENCE]

Hi.

When do you think we'll be able to talk to John? Suzy will be out from 2:00 today and I'll be out from 3:00. We have to talk to John today.

Thanks

---

**From:** Steve Mack [TSY]  
**Sent:** Monday, 18 April 2016 11:32 a.m.  
**To:** Paul Kilford  
**Cc:** Suzy Morrissey [TSY]  
**Subject:** FW: Admin

**Categories:** NZ First OIA

We don't do purchase orders. Can't they just send us an invoice?

---

**From:** Sara Brownlie [CASS]  
**Sent:** Monday, 18 April 2016 11:30 a.m.  
**To:** Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>  
**Cc:** s9(2)(g)(i)  
**Subject:** RE: Admin

We don't operate a purchase order system.

This is an administrative costs by the department rather than a non departmental expense, so I do not need the TR back before you initiate the gazette notice.

I recommend that you provide the cost centre number and the TR number so the invoice is directed to correct cost centre and we remember what it is for:

RC67/2016/694

**Sara Brownlie | Chief Financial Officer | Central Agencies Shared Services**

Central Agencies Shared Services (CASS) delivers services to the Department of Prime Minister and Cabinet, State Services Commission and the Treasury

Tel: +64 4 917 6083 | s9(2)(a)  
[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)

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- b. any use, dissemination or copying of this email is strictly prohibited and may be unlawful.

---

**From:** Steve Mack [TSY]  
**Sent:** Monday, 18 April 2016 11:20 a.m.  
**To:** Sara Brownlie [CASS] <[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)>  
**Subject:** FW: Admin

[IN-CONFIDENCE]

Hi.

Do you know anything about purchase orders?

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]  
**Sent:** Monday, 18 April 2016 10:24 a.m.  
**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>  
**Subject:** Admin

Hi

Apparently the Gazette office need a purchase order number from Treasury for publication (which, incidentally, looks like it will be Wednesday). They charge the princely sum of 68c per word for notices. The current draft that Crown Law is reviewing is 673 words, so about \$457 in total.

My guess is that this is going to be pretty painful and your people are going to say they need the appropriation TR back before the PO can be raised. It would be great if you could pleasantly surprise me though...

Cheers

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 4:09 p.m.  
**To:** Adam Wood [TSY]; Suzy Morrissey [TSY]  
**Subject:** Foreign Trust DISCLOSURE OF CONFLICTS OF INTEREST

**Categories:** NZ First OIA

[IN-CONFIDENCE]

[Foreign Trust DISCLOSURE OF CONFLICTS OF INTEREST \(Treasury:3435008v1\)](#) [Add to worklist](#)

See attached for a simpler approach.



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DISCLOSURE OF CONFLICTS OF INTEREST

Inquiry into Foreign Trust Disclosure Rules

Declare any interest you have in a foreign trust as a settlor, trustee, or beneficiary?

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Are there any other circumstances that amount to a conflict of interest, or may create a perception of a conflict of interest, relating to foreign trusts or other matters that may be considered in the conduct of the inquiry?

s9(2)(g)(i) & s9(2)(h)

Formatted: Font: 9 pt

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**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 3:59 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** 3433754\_Draft Appointment Letter - J Shewan (2)  
**Attachments:** 3433754\_Draft Appointment Letter - J Shewan (2).docx

**Categories:** NZ First OIA

[IN-CONFIDENCE]

One comment.

**IN-CONFIDENCE**

Mr John Shewan

[ ]  
[ ]  
[ ]

Dear Mr Shewan

**Appointment to the Government Inquiry into Foreign Trust Disclosure Rules**

As the appointing Ministers for the Government Inquiry into foreign trust disclosure rules (the Inquiry), I am pleased to advise that you are appointed as the sole member of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on [18 April 2016] and expires on 30 June 2016.

***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the New Zealand Gazette.

The attached Gazette notice will be published shortly and you will be provided with a final copy of it as soon as possible. It sets out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and Terms of Reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

***Reporting dates***

The Terms of Reference specify that the Inquiry will provide its final report to appointing Ministers by 30 June 2016. Section 16 of the Act allows a government inquiry to be postponed or temporarily suspended, following consultation with us. If that occurs, we will also give consideration to amending the Terms of Reference regarding the final reporting date.

***Fees***

As the sole member of the Inquiry you will receive a fixed fee of \$[TBA] which includes any and all travel or other expenses. |

**Commented [AW1]:** Insert following discussion with SSC re fees framework.

Your appointment as a member of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to termination. There is no obligation to compensate you for the early termination of the Inquiry.

**IN-CONFIDENCE**

***Resignation and removal***

You may, at any time, resign from office by writing to us as the appointing Ministers.

As appointing Ministers we may, by notice in the Gazette, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

s9(2)(h)



***Conflicts of Interest***

As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest. If at any stage during your term of appointment you feel further conflicts of interest have arisen or may arise, please bring them to our attention.

Treasury will provide administrative support to the Inquiry. If you require any specific information please contact Suzy Morrissey by telephone on 04 917 6292, mobile telephone on s9(2)(a) or by email at [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz).

**IN-CONFIDENCE**

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely

Hon Simon William English  
Minister of Finance

Hon Michael Woodhouse  
Minister of Revenue

---

**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 3:32 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** Memorandum - Tax review  
**Attachments:** Memorandum - Tax review.docx

**Categories:** NZ First OIA

[IN-CONFIDENCE]

**Memorandum to:**

Rt Hon John Key – Prime Minister  
Hon Chris Finlayson – Attorney-General  
Hon Michael Woodhouse – Minister of Revenue

**From**

Hon Bill English – Minister of Finance

***Background***

On 11 April 2016, Cabinet (CAB-16-MIN-0158):


1. agreed that that an independent review be undertaken of the disclosure rules covering foreign trusts registered in New Zealand and any related matters that may arise, and
2. noted that it is proposed that John Shewan be appointed to undertake the review.

This group of Ministers was authorised to finalise:

1. the terms of reference for an independent review of the foreign trust disclosure rules and any related matters that arise; and
2. the form of the review.

***Terms of reference for the review***

s9(2)(ba)(i)



---


**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 3:20 p.m.  
**To:** Suzy Morrissey [TSY]; Adam Wood [TSY]; Henry Clayton [TSY]  
**Subject:** s9(2)(h)

**Categories:** NZ First OIA

s9(2)(h)



Withheld under s9(2)(g)(i) & s9(2)(h)



---

**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 2:01 p.m.  
**To:** Henry Clayton [TSY]  
**Subject:** Gazette for Review of Foreign Trust Disclosure (legal comments) (003)  
**Attachments:** Gazette for Review of Foreign Trust Disclosure (legal comments) (003).docx

**Categories:** NZ First OIA

Attachment withheld under s9(2)(g)(i)

[IN-CONFIDENCE]

Henry-

Looks really good.

I found a typo, shown attached in markup.

Steve

---

**From:** Steve Mack [TSY]  
**Sent:** Friday, 15 April 2016 11:08 a.m.  
**To:** Henry Clayton [TSY]; Suzy Morrissey [TSY]  
**Cc:** Adam Wood [TSY]  
**Subject:** Disclosure obligations

**Categories:** NZ First OIA

[IN-CONFIDENCE]

Henry-

A way to tie the disclosure obligations to the statutes could be “the reporting and disclosure obligations of a resident foreign trustee (as defined in the Tax Administration Act 1994) of a foreign trust (as defined in the Income Tax Act 2007).”

Steve

---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Monday, 18 April 2016 11:38 a.m.  
**To:** Steve Mack [TSY]  
**Cc:** Suzy Morrissey [TSY]  
**Subject:** RE: Admin  
  
**Categories:** NZ First OIA

I'll just give them the reference in Sara's email and let you know if they have any problems with that.

Thanks for following up.

Paul

---

**From:** Steve Mack [TSY] [mailto:Steve.Mack@treasury.govt.nz]  
**Sent:** Monday, 18 April 2016 11:32 a.m.  
**To:** Paul Kilford  
**Cc:** Suzy Morrissey [TSY]  
**Subject:** FW: Admin

We don't do purchase orders. Can't they just send us an invoice?

---

**From:** Sara Brownlie [CASS]  
**Sent:** Monday, 18 April 2016 11:30 a.m.  
**To:** Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>  
**Cc:** s9(2)(g)(i)  
**Subject:** RE: Admin

We don't operate a purchase order system.

This is an administrative costs by the department rather than a non departmental expense, so I do not need the TR back before you initiate the gazette notice.

I recommend that you provide the cost centre number and the TR number so the invoice is directed to correct cost centre and we remember what it is for:

RC67/2016/694

**Sara Brownlie | Chief Financial Officer | Central Agencies Shared Services**

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Tel: +64 4 917 6083 | Mob s9(2)(a)  
[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)

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---

**From:** Steve Mack [TSY]  
**Sent:** Monday, 18 April 2016 11:20 a.m.

**To:** Sara Brownlie [CASS] <[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)>

**Subject:** FW: Admin

[IN-CONFIDENCE]

Hi.

Do you know anything about purchase orders?

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Monday, 18 April 2016 10:24 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Subject:** Admin

Hi

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My guess is that this is going to be pretty painful and your people are going to say they need the appropriation TR back before the PO can be raised. It would be great if you could pleasantly surprise me though...

Cheers

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings. PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** Emma Grigg <Emma.Grigg@ird.govt.nz>  
**Sent:** Friday, 15 April 2016 7:20 p.m.  
**To:** 'Paul Kilford'; Carmel Peters; Suzy Morrissey [TSY]; Steve Mack [TSY]  
**Cc:** ^IRD: Struan Little; ^IRD: Naomi Ferguson; Graham Tubb  
**Subject:** RE: Final memo  
  
**Categories:** NZ First OIA

Great work Paul - you have done a superb job today pulling us all and this together.  
Have a restful weekend.  
Emma

Sent with Good (www.good.com)

-----Original Message-----

**From:** Paul Kilford [[Paul.Kilford@parliament.govt.nz](mailto:Paul.Kilford@parliament.govt.nz)]  
**Sent:** Friday, April 15, 2016 07:06 PM New Zealand Standard Time  
**To:** Emma Grigg; Carmel Peters; Suzy Morrissey [TSY]; 'Steve Mack [TSY]'  
**Subject:** Final memo

Attached is the final memo that MoF has sent to Ministers. There were changes right up until the end, but I think we've got it to the right place. Thank you all for your help during what has been a pretty busy day.

Hopefully we will get there on Monday or Tuesday of next week.

Have a good weekend  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** Adam Wood [TSY]  
**Sent:** Friday, 15 April 2016 3:48 p.m.  
**To:** Steve Mack [TSY]; Suzy Morrissey [TSY]; Henry Clayton [TSY]  
**Subject:** s9(2)(h)

**Categories:** NZ First OIA

s9(2)(h)



---

**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 3:37 p.m.  
**To:** Paul Kilford  
**Cc:** Steve Mack [TSY]  
**Subject:** RE: Draft Appointment Letter - J Shewan.DOCX  
**Attachments:** 3433754\_Draft Appointment Letter - J Shewan (2).docx

**Categories:** NZ First OIA

Apologies Paul – please consider this version which includes the confidentiality wording.

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** Suzy Morrissey [TSY]  
**Sent:** Friday, 15 April 2016 3:19 p.m.  
**To:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Cc:** Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>  
**Subject:** Draft Appointment Letter - J Shewan.DOCX

[IN-CONFIDENCE]

Hi Paul

Can you please let me know if you have any comments on this letter or if you would like me to circulate it more broadly for comment?

Many thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**IN-CONFIDENCE**

Mr John Shewan

[ ]  
[ ]  
[ ]

Dear Mr Shewan

**Appointment to the Government Inquiry into Foreign Trust Disclosure Rules**

As the appointing Ministers for the Government Inquiry into foreign trust disclosure rules (the Inquiry), I am pleased to advise that you are appointed as the sole member of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on [18 April 2016] and expires on 30 June 2016.

***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the New Zealand Gazette.

The attached Gazette notice will be published shortly and you will be provided with a final copy of it as soon as possible. It sets out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and Terms of Reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

***Reporting dates***

The Terms of Reference specify that the Inquiry will provide its final report to appointing Ministers by 30 June 2016. Section 16 of the Act allows a government inquiry to be postponed or temporarily suspended, following consultation with us. If that occurs, we will also give consideration to amending the Terms of Reference regarding the final reporting date.

***Fees***

As the sole member of the Inquiry you will receive a fixed fee of \$[TBA] which includes any and all travel or other expenses. [ ]

**Commented [AW1]:** Insert following discussion with SSC re fees framework.

Your appointment as a member of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to termination. There is no obligation to compensate you for the early termination of the Inquiry.

**IN-CONFIDENCE**

***Resignation and removal***

You may, at any time, resign from office by writing to us as the appointing Ministers.

As appointing Ministers we may, by notice in the Gazette, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

s9(2)(h)



***Conflicts of Interest***

As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest. If at any stage during your term of appointment you feel further conflicts of interest have arisen or may arise, please bring them to our attention.

Treasury will provide administrative support to the Inquiry. If you require any specific information please contact Suzy Morrissey by telephone on 04 917 6292, mobile telephone on s9(2)(a) or by email at [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz).

**IN-CONFIDENCE**

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely

Hon Simon William English  
Minister of Finance

Hon Michael Woodhouse  
Minister of Revenue

---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 15 April 2016 3:34 p.m.  
**To:** Steve Mack [TSY]  
**Subject:** RE: Gazette for Review of Foreign Trust Disclosure

**Categories:** NZ First OIA

Yes! I made that change once further down, but didn't transpose it. John Shewan has also kindly pointed out the error in my ways.

Thanks for spotting though.

Cheers  
Paul

---

**From:** Steve Mack [TSY] [mailto:Steve.Mack@treasury.govt.nz]  
**Sent:** Friday, 15 April 2016 3:31 p.m.  
**To:** Paul Kilford  
**Subject:** Gazette for Review of Foreign Trust Disclosure

[IN-CONFIDENCE]

Didn't you miss one?

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---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 15 April 2016 3:20 p.m.  
**To:** Steve Mack [TSY]; Emma Grigg (emma.grigg@ird.govt.nz)  
**Cc:** Samantha Aldridge; Suzy Morrissey [TSY]  
**Subject:** RE: Draft Gazette Notice  
**Attachments:** Gazette for Review of Foreign Trust Disclosure.docx  
  
**Categories:** NZ First OIA

Revised draft attached following discussion with John. Changes only very minor and intended to ensure that the document doesn't inadvertently alter the scope from that published earlier in the week.

Paul

---

**From:** Steve Mack [TSY] [mailto:Steve.Mack@treasury.govt.nz]  
**Sent:** Friday, 15 April 2016 12:21 p.m.  
**To:** Paul Kilford; Emma Grigg (emma.grigg@ird.govt.nz)  
**Cc:** Samantha Aldridge; Suzy Morrissey [TSY]  
**Subject:** Draft Gazette Notice

[IN-CONFIDENCE]

Let us know if you have any comments.

---

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## **ESTABLISHMENT OF THE GOVERNMENT INQUIRY INTO FOREIGN TRUST DISCLOSURE RULES**

Pursuant to section 6(3) of the Inquiries Act 2013, The Honourable Simon William English, Minister of Finance, and The Honourable Michael Woodhouse, Minister of Revenue, hereby establish the Government Inquiry into Foreign Trust Disclosure Rules (“**Inquiry**”).

### **Background**

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, in its combined Phase 1 and Phase 2 Peer Review Report of 2013, rated New Zealand “compliant” – the highest possible ranking.

As a result of the recent release of documents known as the ‘Panama Papers’, concerns have been raised about rules covering foreign trusts registered in New Zealand.


Cabinet has decided to initiate a review of New Zealand’s disclosure rules relating to foreign trusts registered in New Zealand to ensure New Zealand’s reputation as a country that cooperates with other jurisdictions to deter abusive tax practices is maintained.

### **Membership**


Mr John Shewan is appointed to and constitutes the Inquiry.

### **Terms of Reference**

s9(2)(ba)(i)



s9(2)(ba)(i)



s9(2)(h)



### **Reporting**

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**.

Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

**Consideration of Evidence**

The Inquiry may begin considering evidence on and from [DATE OF GAZETTE PUBLICATION].

**Relevant Department**

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this ... day of April 2016.  
HON SIMON WILLIAM ENGLISH, MINISTER OF FINANCE  
HON MICHAEL WOODHOUSE, MINISTER OF REVENUE



---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Friday, 15 April 2016 2:25 p.m.  
**To:** Suzy Morrissey [TSY]; Steve Mack [TSY]  
**Subject:** FW: Terms of Reference

**Categories:** NZ First OIA

Can you please call me when you've read John's comments?

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** John Shewan s9(2)(a)  
**Sent:** Friday, 15 April 2016 2:16 p.m.  
**To:** Paul Kilford  
**Subject:** RE: Terms of Reference

Paul

There are three areas of concern-

1. The 'fit for purpose' wording in (b) was not in the original ToR, but was in the covering Ministerial press statement. The problem with listing it separately is that it begs the question as to what would be answered under this heading that is not covered in either (a) or (c). Put another way, it's odd to have this in there without the 'purpose' being explained. I suggest (b) be either deleted or incorporated into (a) and (c).
2. The change to the reputation point is material. As now expressed it is limited to reputational issues arising only from abusive TAX practices, nothing else-eg the fact that the foreign trust rules may facilitate the hiding of sources of funds because of the non-application of the AML rules would be outside of scope. Further, it is limited to reputational issues relating to cooperating with other jurisdictions. To fix this I suggest additional words be inserted after tax practices along the lines of 'and support global efforts to ..... (I have not come up with the right words-we can discuss)
3. The options para, (d), has been narrowed to cover changes to the disclosure rules only. That prohibits suggestions such as ensuring that the AML rules do apply to NZ parties who are involved in establishing and running foreign trusts. There will be others. I request that the words 'or other actions' that could be taken' be added at the end of this sentence. This brings it back into line with the original ToR.

Please call me on s9(2)(a) when you have considered these points.

Regards

John

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]  
**Sent:** Friday, 15 April 2016 1:35 p.m.  
**To:** John Shewan s9(2)(a)  
**Subject:** Try again!

John

As discussed, below is the draft *Gazette* notice that is being circulated through officialdom for review. I am particularly interested to hear from you on whether you are comfortable with the terms of reference, as drafted. As I mentioned, I am reasonably comfortable that most of it is simply rearranging and formalising the original scope, released on Monday (and reproduced below for your reference). My main concern is the addition of the words after “reputation”: “as a country that cooperates with other jurisdictions to deter abusive tax practices”. There is no intention to limit the scope of your inquiry and if you are in any way concerned that these words do limit you, please do not hesitate to say so. Equally, I would be happy to discuss any other wording changes that concern you.

Some confidentiality wording is included. s9(2)(h)

s9(2)(h)

I look forward to hearing from you soon – my contact details are below.

Kind regards  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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## ESTABLISHMENT OF THE GOVERNMENT INQUIRY INTO FOREIGN TRUST DISCLOSURE RULES

Pursuant to section 6(3) of the Inquiries Act 2013, The Honourable Simon William English, Minister of Finance, and The Honourable Michael Woodhouse, Minister of Revenue, hereby establish the Government Inquiry into Foreign Trust Disclosure Rules (“**Inquiry**”).

### Background

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, in its combined Phase 1 and Phase 2 Peer Review Report of 2013, rated New Zealand “compliant” – the highest possible ranking.

As a result of the recent release of documents known as the ‘Panama Papers’, concerns have been raised about rules covering foreign trusts registered in New Zealand.

Cabinet has decided to initiate a review of New Zealand’s disclosure rules relating to foreign trusts registered in New Zealand to ensure New Zealand’s reputation as a country that cooperates with other jurisdictions to deter abusive tax practices is maintained.

## Membership

Mr John Shewan is appointed to and constitutes the Inquiry.

## Terms of Reference

The Inquiry will inquire into, report upon, and make any recommendations it considers it appropriate relating to:

- (a) New Zealand's existing foreign trust disclosure rules in the following areas:
  - (i) record-keeping requirements, including records required to be provided to the New Zealand government;
  - (ii) enforcement of the rules;
  - (iii) exchange of information with foreign jurisdictions; and
  - (iv) practices for complying with the rules;
- (b) whether New Zealand's foreign trust disclosure rules and the enforcement of those rules are fit for purpose;
- (c) whether the existing foreign trust disclosure rules and the enforcement of those rules are sufficient to ensure New Zealand's reputation as a country that cooperates with other jurisdictions to deter abusive tax practices is maintained, when considered alongside New Zealand's:
  - (i) commitment to the OECD action plan on base erosion and profit shifting (BEPS);
  - (ii) commitment to the Convention on Mutual Administrative Assistance in Tax Matters;
  - (iii) commitment to implementing the global standard for the automatic exchange of information (AEOI);
  - (iv) existing and planned bilateral tax treaty network (including tax information exchange agreements);
  - (v) anti-money laundering and countering financing of terrorism laws; and
  - (vi) other related regimes; and
- (d) options for enhancements to New Zealand's foreign trust disclosure rules and enforcement of those rules, including any practical improvements that could be made.

In these terms of reference:

- **foreign trust** has the meaning given to that term by the Income Tax Act 2007; and
- **foreign trust disclosure rules** means:
  - any laws of New Zealand requiring trustees of a foreign trust, or their agents or advisors, to provide information to any New Zealand government agency, and includes (without limitation):
    - laws for the enforcement of those requirements; and
    - the reporting and disclosure obligations of a resident foreign trustee (as defined in the Tax Administration Act 1994) of a foreign trust; and
  - the New Zealand government's obligations to provide information it holds about foreign trusts to tax authorities from other jurisdictions.

## **Reporting**

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**.

Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

## **Consideration of Evidence**

The Inquiry may begin considering evidence on and from [DATE OF GAZETTE PUBLICATION].

## **Relevant Department**

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this ... day of April 2016.

HON SIMON WILLIAM ENGLISH, MINISTER OF FINANCE

HON MICHAEL WOODHOUSE, MINISTER OF REVENUE

---

# **FOREIGN TRUST DISCLOSURE RULES**

## **Scope of review**

In its combined Phase 1 and Phase 2 Peer Review Report of 2013, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes rated New Zealand “compliant” – the highest possible ranking.

Given the release of documents known as the ‘Panama Papers’, the Ministers of Finance and Revenue would like you to review New Zealand's existing disclosure rules and practices in the following areas as they relate to foreign trusts:

- Record-keeping, including records required to be provided to the Government
- Enforcement
- Exchange with foreign jurisdictions.

The Ministers would like you to report on whether the existing rules, when considered alongside New Zealand's:

- Commitment to the OECD action plan on base erosion and profit shifting (BEPS)
- Commitment to the Convention on Mutual Administrative Assistance in Tax Matters

- Commitment to implementing the global standard for the automatic exchange of information (AEOI) and
- Existing and planned bilateral tax treaty network (including tax information exchange agreements)
- Anti-Money Laundering framework
- Other related regimes

- are sufficient to ensure our reputation is maintained.

If not, the Ministers would like your report to provide options on enhancements to our disclosure rules and/or practices and any other matters.

Your report should be sent to the relevant Ministers by 30 June 2016.

---

**From:** Adam Wood [TSY]  
**Sent:** Friday, 15 April 2016 1:41 p.m.  
**To:** Sara Brownlie [CASS]  
**Cc:** Jeremy Salmond [TSY]; Suzy Morrissey [TSY]; Steve Mack [TSY]; Henry Clayton [TSY]  
**Subject:** RE: Inquiry  
**Attachments:** report-unauthorised-disclosure-mfat-papers.pdf  
  
**Categories:** NZ First OIA

Thanks.

As discussed, I won't ask for a copy of that given the Rebstock review was conducted under s8 State Sector Act, which is different to the Government Inquiry we are running here under the Inquiries Act:

## 8 Power of Commissioner to conduct inspections and investigations

(1)

This section applies when the Commissioner is carrying out his or her functions in respect of the Public Service.

(2)

The Commissioner may conduct any inspections and investigations, and make and receive any reports, that the Commissioner considers necessary or the Minister directs.

Section 8: substituted, on 25 January 2005, by [section 6](#) of the State Sector Amendment Act (No 2) 2004 (2004 No 114).

Section 8(1): replaced, on 18 July 2013, by [section 12](#) of the State Sector Amendment Act 2013 (2013 No 49).

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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a. please immediately delete this email and notify the Treasury by return email or telephone (64 4 472 2733); b. any use, dissemination or copying of this email is strictly prohibited and may be unlawful.

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**From:** Sara Brownlie [CASS]  
**Sent:** Friday, 15 April 2016 1:28 p.m.  
**To:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>; Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>; Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>  
**Cc:** Jeremy Salmond [TSY] <[Jeremy.Salmond@treasury.govt.nz](mailto:Jeremy.Salmond@treasury.govt.nz)>  
**Subject:** Re: Inquiry

Please can you approach SSC legal for the Paula Rebstock one too.

Sent from my BlackBerry 10 smartphone.

---

**From:** Adam Wood [TSY]  
**Sent:** Friday, 15 April 2016 12:48  
**To:** Suzy Morrissey [TSY]; Steve Mack [TSY]; Henry Clayton [TSY]; Sara Brownlie [CASS]  
**Cc:** Jeremy Salmond [TSY]  
**Subject:** FW: Inquiry

[IN-CONFIDENCE]

FYI – I could not get hold of anyone at DIA that could give me with some example appointment letters, but I have managed to track down someone at SSC that could help.

I will review these now...

Cheers

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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**From:** s9(2)(a)  
**Sent:** Friday, 15 April 2016 12:33 p.m.  
**To:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Cc:** Kelley Reeve [SSC] <[Kelley.Reeve@ssc.govt.nz](mailto:Kelley.Reeve@ssc.govt.nz)>  
**Subject:** Re: Inquiry  
**Importance:** High

Hi Adam,

Here are three examples of recent appointment letters: Miriam Dean QC, Hon John Priestley QC, and Mel Smith (split into two letters). We have a checklist of things to consider/work through during the establishment phase of an Inquiry, and would be happy to work through it with you / Mr Shewin if that would be helpful. I will be back in Wellington on Tuesday/Wednesday next week in case you would like to take us up on that.

Best,  
Simon / Kelley

---

**From:** Henry Clayton [TSY]  
**Sent:** Friday, 15 April 2016 12:51 p.m.  
**To:** Paul Kilford; Steve Mack [TSY]; Suzy Morrissey [TSY]  
**Cc:** Adam Wood [TSY]  
**Subject:** RE: Draft memo  
**Attachments:** Gazette for Review of Foreign Trust Disclosure (legal comments).DOCX  
  
**Categories:** NZ First OIA

*Confidential and legally privileged*

Hi all,

s9(2)(h)



Kind regards,

**Henry Clayton** | Senior Solicitor | **The Treasury**  
Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Paul Kilford [mailto:Paul.Kilford@parliament.govt.nz]  
**Sent:** Friday, 15 April 2016 12:13 p.m.  
**To:** Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>  
**Cc:** Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>; Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>; Henry Clayton [TSY] <Henry.Clayton@treasury.govt.nz>  
**Subject:** RE: Draft memo



**From:** Suzy Morrissey [TSY]

**Sent:** Friday, 15 April 2016 11:24 a.m.

**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>

**Subject:** FW: Draft memo

[IN-CONFIDENCE]

Paul's memo to which he referred on the phone...

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 11:22 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Subject:** Draft memo

Hi

Here is the memo with the IRD confidentiality wording imbedded in the terms of reference. IRD has pointed out

s9(2)(h)

s9(2)(h)

Also, the "All members of the inquiry" wording will probably need to change to reflect the fact that there is just one inquirer.

They would also want to see this confidentiality wording replicated in whatever terms of engagement document is finally produced for Mr Shewan to sign.

Please email back with track changes as soon as you can (and call to discuss) and then I will circulate more widely.

Cheers

Paul

**Paul Kilford** | Tax Policy Advisor

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | [s9\(2\)\(a\)@parliament.govt.nz](mailto:s9(2)(a)@parliament.govt.nz) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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## **ESTABLISHMENT OF THE GOVERNMENT INQUIRY INTO FOREIGN TRUST DISCLOSURE RULES**

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Mr John Shewan is appointed to and constitutes the Inquiry.

### **Terms of Reference**

s9(2)(ba)(i)



s9(2)(ba)(i)



s9(2)(h)



### **Reporting**

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**.

Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

**Consideration of Evidence**

The Inquiry may begin considering evidence on and from [DATE OF GAZETTE PUBLICATION].

**Relevant Department**

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this ... day of April 2016.

HON SIMON WILLIAM ENGLISH, MINISTER OF FINANCE

HON MICHAEL WOODHOUSE, MINISTER OF REVENUE

DRAFT

---

**From:** Steve Mack [TSY]  
**Sent:** Thursday, 14 April 2016 5:46 p.m.  
**To:** Suzy Morrissey [TSY]  
**Subject:** RE: Gazette for Review of Foreign Trust Disclosure

**Categories:** NZ First OIA

A couple of suggestions.

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 5:39 p.m.  
**To:** Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>  
**Subject:** Gazette for Review of Foreign Trust Disclosure

[IN-CONFIDENCE]

[Gazette for Review of Foreign Trust Disclosure \(Treasury:3433007v1\)](#) [Add to worklist](#)

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)


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**IN-CONFIDENCE**

s9(2)(g)(i)



**IN-CONFIDENCE**

s9(2)(g)(i)



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**From:** Steve Mack [TSY]  
**Sent:** Wednesday, 13 April 2016 10:41 a.m.  
**To:** Emma Grigg (emma.grigg@ird.govt.nz)  
**Cc:** Suzy Morrissey [TSY]  
**Subject:** Draft Shewan Contract  
**Attachments:** 3430947\_1.docx

**Categories:** NZ First OIA

[IN-CONFIDENCE]

Emma-

I haven't yet heard whether John will be contracted by Treasury or elsewhere, but this is the standard Treasury contract. Presumably other contracts would capture much the same information.

Do you think this is something John would want to discuss tomorrow?

Steve



# Contract for Services

**[short title for Contract]** [add Contract Reference number if applicable]

## The Parties

### The Treasury

(Buyer)

1 The Terrace, Wellington

P O Box 3724, Wellington 6140

and

**[insert the legal name of the Supplier]**

(Supplier)

**[insert address]** For a company use the registered office. For others use physical address.

**[insert address]**

## The Contract

### Agreement

The Buyer appoints the Supplier to deliver the Services described in this Contract and the Supplier accepts that appointment. This Contract sets out the Parties' rights and obligations.

### The documents forming this Contract are:

- |   |                   |
|---|-------------------|
| 1. This page  | <b>Page 1</b>     |
| 2. Contract Details and Description of Services   | <b>Schedule 1</b> |
| 3. Standard Terms and Conditions  | <b>Schedule 2</b> |
| GMC Form 1 SERVICES   Schedule 2 (2nd Edition) available at: <a href="http://www.procurement.govt.nz">www.procurement.govt.nz</a> |                   |
| 4. Any other attachments described at Schedule 1.   |                   |

### How to read this Contract

- Together the above documents form the whole Contract.
- Any Supplier terms and conditions do not apply.
- Clause numbers refer to clauses in Schedule 2.
- Words starting with capital letters have a special meaning. The special meaning is stated in the Definitions section at clause 17 (Schedule 2).

## Acceptance

In signing this Contract each Party acknowledges that it has read and agrees to be bound by it.

For and on behalf of the **Buyer**:

For and on behalf of the **Supplier**:

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(signature)

**name:**

**name:**

**position:**

**position:**

**date:**

**date:**

# Schedule 1

## Contract Details and Description of Services

<b>Start Date</b>		Reference Schedule 2 clause 1
<b>End Date</b>		Reference Schedule 2 clause 1

<b>Contract Managers</b> Reference Schedule 2 clause 4		<b>Buyer's Contract Manager</b>	<b>Supplier's Contract Manager</b>
	<b>Name:</b>		
	<b>Title / position:</b>		
	<b>Address:</b>		
	<b>Phone:</b>		
	<b>Fax:</b>		
	<b>Email:</b>		

<b>Addresses for Notices</b> Reference Schedule 2 clause 14		<b>Buyer's address</b>	<b>Supplier's address</b>
	<b>For the attention of:</b>	[Contract Mgr or senior mgr]	[Contract Mgr or senior mgr]
	<b>c.c. Contract Manager</b>	[cc if senior manager above]	[cc if senior manager above]
	<b>Delivery address:</b>		
	<b>Postal address:</b>		
	<b>Fax:</b>		
	<b>Email:</b>		

<b>Supplier's Approved Personnel</b> Reference Schedule 2 clause 2.5	[OPTIONAL]	<b>Approved Personnel</b>
	<b>Name:</b>	
	<b>Position:</b>	
	<b>Specialisation:</b>	

<b>Supplier's Approved Sub-contractor</b> Reference Schedule 2 clause 7	[OPTIONAL]	<b>Approved Sub-contractor</b>
	<b>Name:</b>	
	<b>Address:</b>	
	<b>Specialisation:</b>	

<b>Description of Services</b>	
<p><b>[Insert a concise description of the Services to be provided. Use the questions as prompts.]</b></p> <p><b>Context [optional]</b></p> <p>[Describe the background to the Services.]</p> <p>[What are the overarching goals, objectives and outcomes you want to achieve?]</p> <p><b>Description of Services</b></p> <p>[What is the nature of the Services?]</p> <p>[How should the Services be delivered?]</p> <p>[Refer to any proposal prepared by the Supplier if this helps describe any aspects of the Service.]</p>	

**Deliverables**

[What are the key Deliverables or outputs?]

[What are the specific tasks the Supplier must complete?]

[What are the specific Deliverables and/or Milestones? Describe each Deliverable/Milestone, its due date & payment due on completion. Note: the table below may be included in this section, or the Invoices section.]

Deliverable/Milestone	Performance Standards	Due date	Amount due (exc GST)
[insert specific Milestones to be achieved]	[insert the quality or standard or key performance indicator required]	[insert date for completion of Milestone]	[insert amount of instalment payable on successful completion of the Milestone]

**Example**

1. Develop training module on health & safety for staff.	In accordance with H&S Act & good practice	20 April 2012	\$2,500
2. Delivery of training to 20 staff.	2 full training sessions of 10 staff each	30 May 2012	\$3,000
3. Evaluation of training outcomes and end of contract report.	90% of staff rating training as 'good' to 'excellent'	30 June 2012	\$1,000
<b>Total (exc GST)</b>			<b>\$6,500</b>

**Performance standards** [These can be included in the type of table illustrated above.]

[What quality standards apply to the delivery of the Services?]

[How will these be measured?]

[When will they be measured and by whom?]

[What are the key performance indicators that describe the quality standards?]

**Specific code of conduct / health & safety / legislative requirement** [optional]

[Reference any specific code of conduct (other than SSC *Standards of Integrity and Conduct*), health & safety or legislative requirement the Supplier must be aware of in providing the Services. These can be noted in the 'Attachments' box at the end of Schedule 1. Attach a copy and/or provide web address where the document can be located.]

**Transfer of Records** [optional]

[If appropriate – include details of the Records that the Supplier must transfer to the Buyer during the term of the Contract, or at the end of the Contract. Make this a specific Deliverable under the Contract.]

**Supplier's Reporting Requirements**

Reference Schedule 2 clause 5

Report to:	Type of report	Due date
Contract Manager	[Interim Progress Report]	[insert date]
	[Monthly Progress Report]	[insert date]
	[Project completion report]	[insert date]

**CHARGES:** The following section sets out the Charges. Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include **Fees**, and where agreed, **Expenses** and **Daily Allowances**. The Charges for this Contract are set out below.

**Fees**

Reference Schedule 2 clause 3

The Supplier's Fees will be calculated as follows:

[Choose one option, insert relevant details and delete remainder.]

[If the currency is not NZD clearly state the agreed currency.]

**Fixed Fee**

A fixed Fee of \$[ ] excluding GST.

**OR**

**Hourly Fee Rate**

For each hour worked an Hourly Fee Rate of \$[ ] excluding GST, up to a total maximum of \$[ ] excluding GST.

If the Supplier reaches the total maximum without completing the Services, the Supplier is required to complete the Services without further payment, unless otherwise agreed in writing.

**OR****Daily Fee Rate**

For each day worked a Daily Fee Rate of \$[ ] excluding GST, up to a total maximum of \$[ ] excluding GST. One day's work is defined as eight hours. If the Supplier works less than a full day the Fee shall be calculated based on the time worked at the agreed Daily Fee Rate i.e. (Daily Fee Rate ÷ 8) x hours worked.

If the Supplier reaches the total maximum without completing the Services, the Supplier is required to complete the Services without further payment, unless otherwise agreed in writing.

**OR****Individual Personnel Rates and/or Approved Personnel Rates**

[Hourly/Daily Fee Rates] for each of the [Approved] Personnel set out below, up to a total maximum of \$[ ] excluding GST, in accordance with the following table of rates.

The Supplier's Approved Personnel are named individuals approved by the Buyer, as stated above. **[delete if there are no Approved Personnel]**

[Approved] Personnel	[Hourly/Daily Fee Rate] (exc GST)	Total hours/days	Total Fees
[Insert Personnel's specialisation or name of Approved Personnel]	[insert either hourly or daily rate as applicable]	[insert total maximum chargeable hours/days]	[insert total maximum charge for Fees]
[Insert Personnel's specialisation or name of Approved Personnel]	[insert either hourly or daily rate as applicable]	[insert total maximum chargeable hours/days]	[insert total maximum charge for Fees]
<b>Total chargeable hours/days</b>		<b>[Insert total]</b>	
<b>Total chargeable Fees (excluding GST)</b>			<b>[insert total]</b>

**Expenses**

Reference Schedule 2  
clause 3

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency.]**

No Expenses are payable.

**OR****Actual and reasonable — general Expenses**

The Buyer will pay the Supplier's actual and reasonable Expenses incurred in delivering the Services up to a total maximum amount of \$[ ] excluding GST provided that:

- the Buyer has given prior written consent to the Supplier incurring the Expense
- the Expense is charged at actual and reasonable cost, and
- the claim for Expenses is supported by GST receipts.

**OR****Actual and reasonable — specified Expenses**

The Buyer will pay the Supplier's actual and reasonable Expenses incurred in delivering the Services up to the total maximum amounts stated below, provided that the claim for Expenses is supported by GST receipts.

Item of Expense	Number of items	Cost (exc GST)	Total max cost (exc GST)
[accommodation]	[number of nights]	[cost per night]	[total cost]
[meals]	[Breakfast, lunch and dinner]	[number days]	[total cost]
[airfares]	[number of return flights]	[cost per flight]	[total cost]
[taxi fares]	n/a	n/a	[total cost]
[mileage for vehicle]	n/a	[amount per item]	[total cost]
[printing costs]	[copies]	n/a	[total cost]
[Subcontractor costs]	n/a	n/a	[total cost]
<b>Total maximum Expenses (excluding GST)</b>			<b>[insert total]</b>

**Daily Allowance**  
Reference Schedule 2  
clause 3

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency]**

No Daily Allowances are payable.

**OR**

The Supplier is entitled to charge the following Daily Allowances:

A fixed Daily Allowance to cover accommodation, meals and incidentals, calculated as stated below. The Supplier is not required to provide receipts for Daily Allowances.

Daily Allowance item	Number of days	Rate	Total
[Accommodation]	[number]	[night rate]	[total cost]
[Breakfast]	[number]	[rate]	[total cost]
[Lunch]	[number]	[rate]	[total cost]
[Dinner]	[number]	[rate]	[total cost]
<b>Total maximum Daily Allowances</b>			<b>[insert total]</b>

**Exchange rate**

**OPTIONAL**  
**Delete if n/a**

**[Use this where you want to fix the exchange rate at time of letting the contract.]**

Where the Supplier is to be paid in a currency other than NZD the Parties agree that the following exchange rate shall apply when calculating the amount due.

[insert one unit of foreign currency] = NZD [insert amount]

**Invoices**

Reference Schedule 2  
Subject to clauses 3 and 11.7

The Supplier must send the Buyer an invoice for the Charges at the following times:

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency.]**

On completion of the Services.

**OR**

At the end of the month, for Services delivered during that month.

**OR**

On the following dates subject to completion of the relevant [Deliverables/Milestones].

	Deliverable/Milestone	Due date	Amount due (exc GST)
	[insert specific Deliverables/Milestones to be achieved]	[insert date for completion of Deliverable/Milestone]	[insert amount payable on completion of the Deliverable/Milestone]
	<b>Example</b>		
	1. Development of training module.	20 April 2012	\$2,500
	2. Delivery of training to 20 staff.	30 May 2012	\$3,000
	3. Evaluation of training outcomes and end of contract report.	30 June 2012	\$1,000
	<b>Total (exc GST)</b>		<b>\$6,500</b>

Address for invoices	Buyer's address	
Reference Schedule 2 clause 3	For the attention of:	
	Physical address:	
	Postal address:	
	Email:	If you allow invoices to be sent by email – otherwise delete
	Fax:	If you allow invoices to be sent by fax – otherwise delete

Insurance	INSURANCE: (clause 8.1 Schedule 2)
Reference Schedule 2 Clause 8.1	It is the Supplier's responsibility to ensure its risks of doing business are adequately covered, whether by insurance or otherwise. The Buyer does not require any specific insurance under this Contract. <b>[and delete the wording below]</b>
	<b>OR</b>
	The Supplier must have the following insurance: <b>[delete what is not applicable]</b>
	a. Public liability insurance of \$[insert figure] <b>OR</b> [three/five/ten] times the total Fees paid and payable under this Contract.
	b. Professional indemnity insurance of \$[insert figure] <b>OR</b> [three/five/ten] times the total Fees paid and payable under this Contract.

Changes to Schedule 2 and additional clause/s	
	<b>[Set out any changes to clauses in Schedule 2 of this Contract. For example, are the time periods set for the mediation/termination processes in clauses 10 and 11 appropriate? If you require no changes, state 'None'. The new clause 17.2 below is added to ensure the Supplier doesn't cause the Buyer to breach the Privacy Act 1993]</b>
	<b>New Clause 17.2:</b>
	"Further to the definition above, 'Confidential Information' of the Buyer includes personal information (as defined in the Privacy Act 1993) collected or held by the Supplier in relation to the Services."

Attachments	
Reference 'Contract documents' described at Page 1	<b>[Describe any attachments to this Contract. This includes any specific code of conduct, health &amp; safety or legislative requirement the Supplier must be aware of in providing the Services. Attach a copy and/or provide web address where the document can be located – otherwise state 'None']</b>

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 5:50 p.m.  
**To:** Steve Mack [TSY]  
**Subject:** FW: DRAFT Contact for Services - Mr John Shewan

**Categories:** NZ First OIA

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**From:** Adam Wood [TSY]  
**Sent:** Thursday, 14 April 2016 5:36 p.m.  
**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>  
**Cc:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>  
**Subject:** RE: DRAFT Contact for Services - Mr John Shewan

Hi Suzy

I had not realised this was an inquiry under the Inquiries Act and had thought you only required a contract for services for Mr Shewan.

s9(2)(h)



We may need to discuss in more detail tomorrow morning.

Kind regards

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 4:49 p.m.  
**To:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Subject:** DRAFT Contact for Services - Mr John Shewan

[IN-CONFIDENCE]

[DRAFT Contact for Services - Mr John Shewan \(Treasury:3430947v1\)](#) [Add to worklist](#)

Further to my earlier correspondence, will this draft contract be sufficient for the purposes of the statutory review under the Enquiries Act? There are a few details I need to check with Tim / James (whether to use their names / Gabs name etc) and we are finalising the question of cost.

There isn't a confidentiality agreement with this draft. Do I need one for this?

It would be great to have a chat if you have some capacity at some point today / tomorrow.

Thanks  
Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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**Inland Revenue**  
Te Tari Taake

## POLICY AND STRATEGY

**Policy report:** Request from John Shewan for information from  
Inland Revenue

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<b>Date:</b>	14 April 2016	<b>Priority:</b>	<b>High</b>
<b>Security level:</b>	In Confidence	<b>Report no:</b>	IR2016/154

### Action sought

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	Action sought	Deadline
Minister of Finance	<p><b>Note</b> the content of this report.</p> <p><b>Approve</b> the release by Inland Revenue of relevant policy information relating to the foreign trust rules to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.</p> <p><b>Refer</b> a copy of this report to the Minister of Revenue</p>	14 April 2016

### Contact for telephone discussion (if required)

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Name	Position	Telephone
Carmel Peters	Policy Manager, Inland Revenue	04 890 6139 (wk) s9(2)(a)



14 April 2016

Minister of Finance  
Minister of Revenue

## **Request from John Shewan for information from Inland Revenue**

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### **Purpose**

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1. John Shewan has requested Inland Revenue to provide policy and technical documents including reports to Government in relation to the foreign trust rules and related matters. These documents relate to the initial reform of our trust rules in 1988 and all subsequent changes to those rules. The reason Mr Shewan has asked for this information is to assist him with his review of foreign trust disclosure rules.
2. To release the resulting information, Inland Revenue requires approval from the Minister of Finance under section 81(4)(j) of the Tax Administration Act.

### **Background**

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3. On 11 April 2016 the Government appointed John Shewan to conduct an independent review of disclosure rules covering foreign trusts.
4. The specific request is to assist Mr Shewan with this review.
5. The results are all aggregate figures and do not identify specific taxpayers.
6. Upon release, the information will be used by Mr Shewan to report to the Government by 30 June 2016 on his review of disclosure rules covering foreign trusts.
7. The information requested is covered by section 81 of the Tax Administration Act 1994, which requires all Inland Revenue officers to maintain, and assist in maintaining, the secrecy of all matters relating to the Revenue Acts. This means that we cannot provide the information outside of the Department unless one of the exceptions contained within section 81 applies.

8. We have determined that section 81(4)(j) is the only exception that would allow release of the requested information. This section provides for:

*communicating any information of a general nature, being information which does not reveal the identity of any taxpayer, to any person authorised by the Minister [of Finance] to receive it, where the Minister—*

- (i) is satisfied that it is in the public interest to communicate that information, and that such information is readily available in the department; and*
- (ii) considers that it is reasonable and practicable to communicate that information.*

### **Information intended for release**

---

9. Inland Revenue requests you to authorise Inland Revenue to provide policy and technical documents including reports to Government in relation to the foreign trust rules and related matters. These documents relate to the initial reform of our trust rules in 1988 and all subsequent changes to those rules.

## Recommended action

---

I recommend that you:

- (a) **note** the content of this report.

Noted

- (b) **approve** the release by Inland Revenue of relevant policy information relating to the foreign trust rules to John Shewan for the purposes of his review of the disclosure rules covering foreign trusts.

Approved/Not approved

- (c) **Refer** this report to the Minister of Revenue for his information.

Referred

s9(2)(a)



**Carmel Peters**  
Policy Manager  
Policy and Strategy



**Hon Bill English**  
Minister of Finance

---

**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Wednesday, 13 April 2016 6:52 p.m.  
**To:** Jessica Rowe; Maraina Hak  
**Cc:** PAS Policy Team - Carmel; Emma Grigg; ^IRD: Naomi Ferguson; Suzy Morrissey [TSY]; Steve Mack [TSY]; ^IRD: Struan Little; ^IRD: David Carrigan; John Nash; Anu Anand  
**Subject:** RE: Report to Minister of Finance - Request from John Shewan for information from Inland Revenue  
  
**Categories:** NZ First OIA

Thanks Jess

As discussed with Emma, I will endeavour to get MoF to sign this first thing in the morning and will text Emma to confirm.

Cheers  
Paul

Sent with Good (www.good.com)

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**From:** Jessica Rowe  
**Sent:** Wednesday, 13 April 2016 6:46:56 p.m.  
**To:** Paul Kilford; Maraina Hak  
**Cc:** PAS Policy Team - Carmel; Emma Grigg; Naomi Ferguson; suzy.morrissey@treasury.govt.nz; steve.mack@treasury.govt.nz; Struan Little; David Carrigan; John Nash; Anu Anand  
**Subject:** Report to Minister of Finance - Request from John Shewan for information from Inland Revenue

Hi Paul

As discussed, please find attached the report to the Minister of Finance.

Kind regards  
Jess

**Jess Rowe** | Senior Policy Advisor, Policy and Strategy | **Inland Revenue**  
T. +64 27 215 6496 | F. +64 4 903 2413 |  
E. [Jessica.rowe@ird.govt.nz](mailto:Jessica.rowe@ird.govt.nz)

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**From:** Paul Kilford <Paul.Kilford@parliament.govt.nz>  
**Sent:** Wednesday, 13 April 2016 10:23 a.m.  
**To:** Suzy Morrissey [TSY]; s9(2)(g)(i) 'Emma Grigg'; Maraina Hak; Steve Mack [TSY]  
**Cc:** ^AssocMOF: Kenny Clark; 'Carmel Peters'; 'Samantha Aldridge'  
**Subject:** RE: Review  
  
**Categories:** NZ First OIA

I now understand that John has agreed to whatever the going rate for these reviews is – and estimates it will take him 15 full days. On that basis, I will sort out what that rate is with DPMC/Cab office tomorrow and get back to you all after that. Apologies for any inconvenience.

Paul

---

**From:** Paul Kilford  
**Sent:** Wednesday, 13 April 2016 9:55 a.m.  
**To:** 'Suzy Morrissey [TSY]'; s9(2)(g)(i) Emma Grigg; Maraina Hak; Steve Mack [TSY]  
**Cc:** Kenny Clark; 'Carmel Peters'; Samantha Aldridge  
**Subject:** Review

Hi everyone

Who would have thought that setting up an independent review would involve so much admin! I have a meeting with DPMC and the Cabinet Office tomorrow to try to get to the bottom of how these things usually work. It appears there is some precedent for DIA to be involved in 'centralised' reviews in a secretariat capacity.

In any event, for the purposes of that meeting, it would be good if I could find out what the likely external Budget for the review will be (i.e., what John is planning on charging us). I don't know if this will have any knock-on effects in terms of the formality of proceedings, but we need to at least let the delegated group of Ministers know what they are dealing with so decisions can be made. I can make this call if necessary, if someone could get me John's number, or else I would be happy to delegate to Treasury if you all think that is more appropriate. Views welcome.

Cheers  
Paul

**Paul Kilford | Tax Policy Advisor**  
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings. PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

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**From:** Suzy Morrissey [TSY]  
**Sent:** Wednesday, 13 April 2016 8:07 a.m.  
**To:** Steve Mack [TSY]  
**Subject:** DRAFT Contact for Services - Mr John Shewan

**Categories:** NZ First OIA

[UNCLASSIFIED]

[DRAFT Contact for Services - Mr John Shewan \(Treasury:3430947v1\)](#) [Add to worklist](#)

Hi Steve

I haven't heard anything much from Paul or Emma about John's contract. Given that we are meeting with him tomorrow, I suspect we can discuss anything relevant then and be better informed for drafting, but just in case the offices start pushing for paperwork – please see attached. I haven't filled anything in, so you would have to update it yourself or ask s9(2)(g)(i) to do it, but I don't think it will be necessary.

It's just that I'm out of email contact for the rest of the day and wanted you to have this just in case.

Please call me if you want to discuss anything, I don't mind at all. See you tomorrow.

Cheers

Suzy

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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# Contract for Services

## Review of foreign trust disclosure rules

### The Parties

**The Treasury** (Buyer)

1 The Terrace, Wellington

P O Box 3724, Wellington 6140

and

**Mr John Shewan** (Supplier)

Address

### The Contract

#### Agreement

The Buyer appoints the Supplier to deliver the Services described in this Contract and the Supplier accepts that appointment. This Contract sets out the Parties' rights and obligations.

#### The documents forming this Contract are:

- |   |                   |
|---|-------------------|
| 1. This page  | <b>Page 1</b>     |
| 2. Contract Details and Description of Services   | <b>Schedule 1</b> |
| 3. Standard Terms and Conditions  | <b>Schedule 2</b> |
| GMC Form 1 SERVICES   Schedule 2 (2nd Edition) available at: <a href="http://www.procurement.govt.nz">www.procurement.govt.nz</a> |                   |
| 4. Any other attachments described at Schedule 1.   |                   |

#### How to read this Contract

- Together the above documents form the whole Contract.
- Any Supplier terms and conditions do not apply.
- Clause numbers refer to clauses in Schedule 2.
- Words starting with capital letters have a special meaning. The special meaning is stated in the Definitions section at clause 17 (Schedule 2).

### Acceptance

In signing this Contract each Party acknowledges that it has read and agrees to be bound by it.

For and on behalf of the **Buyer**:

\_\_\_\_\_  
(signature)

**name:** GABRIEL MAKHLOUF

**position:** SECRETARY & CHIEF EXECUTIVE

**date:**

For and on behalf of the **Supplier**:

\_\_\_\_\_  
(signature)

**name:** MR JOHN SHEWAN

**position:**

**date:**



# Schedule 1

## Contract Details and Description of Services

<b>Start Date</b>		Reference Schedule 2 clause 1
<b>End Date</b>	30 JUNE 2016	Reference Schedule 2 clause 1

<b>Contract Managers</b> Reference Schedule 2 clause 4	Buyer's Contract Manager	Supplier's Contract Manager
<b>Name:</b>		N/A
<b>Title / position:</b>		
<b>Address:</b>		
<b>Phone:</b>		
<b>Fax:</b>		
<b>Email:</b>		

<b>Addresses for Notices</b> Reference Schedule 2 clause 14	Buyer's address	Supplier's address
<b>For the attention of:</b>	[Contract Mgr or senior mgr]	[Contract Mgr or senior mgr]
<b>c.c. Contract Manager</b>	[cc if senior manager above]	[cc if senior manager above]
<b>Delivery address:</b>		
<b>Postal address:</b>		
<b>Fax:</b>		
<b>Email:</b>		

<b>Supplier's Approved Personnel</b> Reference Schedule 2 clause 2.5	[OPTIONAL] Approved Personnel
<b>Name:</b>	
<b>Position:</b>	
<b>Specialisation:</b>	

<b>Supplier's Approved Sub-contractor</b> Reference Schedule 2 clause 7	[OPTIONAL] Approved Sub-contractor
<b>Name:</b>	
<b>Address:</b>	
<b>Specialisation:</b>	

<b>Description of Services</b>
<p><b>Scope of review</b></p> <p>In its combined Phase 1 and Phase 2 Peer Review Report of 2013, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes rated New Zealand "compliant" – the highest possible ranking.</p> <p>Given the release of documents known as the 'Panama Papers', the Ministers of Finance and Revenue would like you to review New Zealand's existing disclosure rules and practices in the following areas as they relate to foreign trusts:</p> <ul style="list-style-type: none"> <li>Record-keeping, including records required to be provided to the Government</li> <li>Enforcement</li> <li>Exchange with foreign jurisdictions.</li> </ul>

The Ministers would like you to report on whether the existing rules, when considered alongside New Zealand's:

- Commitment to the OECD action plan on base erosion and profit shifting (BEPS)
- Commitment to the Convention on Mutual Administrative Assistance in Tax Matters
- Commitment to implementing the global standard for the automatic exchange of information (AEOI) and
- Existing and planned bilateral tax treaty network (including tax information exchange agreements)
- Other related regimes

- are sufficient to ensure our reputation is maintained.

If not, the Ministers would like your report to provide options on enhancements that could be made to our disclosure rules and/or practices.

**Deliverables**

[What are the key Deliverables or outputs?]

[What are the specific tasks the Supplier must complete?]

[What are the specific Deliverables and/or Milestones? Describe each Deliverable/Milestone, its due date & payment due on completion. Note: the table below may be included in this section, or the Invoices section.]

Deliverable/Milestone	Performance Standards	Due date	Amount due (exc GST)
Report	Report should answer the questions included in the Scope of review	30 June 2016	\$TBA
Total (exc GST)			\$6TBA

**Transfer of Records [optional]**

[If appropriate – include details of the Records that the Supplier must transfer to the Buyer during the term of the Contract, or at the end of the Contract. Make this a specific Deliverable under the Contract.]

**Supplier's Reporting Requirements**

Reference Schedule 2 clause 5

**Report to:**

Contract Manager

**Type of report**

[Interim Progress Report]

[Monthly Progress Report]

[Project completion report]

**Due date**

[insert date]

[insert date]

[insert date]

**CHARGES:** The following section sets out the Charges. Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include **Fees**, and where agreed, **Expenses** and **Daily Allowances**. The Charges for this Contract are set out below.

**Fees**

Reference Schedule 2 clause 3

The Supplier's Fees will be calculated as follows:

**[Choose one option, insert relevant details and delete remainder.]**

**[If the currency is not NZD clearly state the agreed currency.]**

**Fixed Fee**

A fixed Fee of \$TBA excluding GST.

**Expenses**

Reference Schedule 2 clause 3

No Expenses are payable.

**Address for invoices**

Reference Schedule 2 clause 3

**Buyer's address**

**For the attention of:**

**Physical address:**

**Postal address:**

<b>Insurance</b> Reference Schedule 2 Clause 8.1	<b>INSURANCE: (clause 8.1 Schedule 2)</b> It is the Supplier's responsibility to ensure its risks of doing business are adequately covered, whether by insurance or otherwise. The Buyer does not require any specific insurance under this Contract. <b>[and delete the wording below]</b> <b>OR</b> The Supplier must have the following insurance: <b>[delete what is not applicable]</b> a. Public liability insurance of <b>\$(insert figure)</b> <b>OR</b> <b>[three/five/ten]</b> times the total Fees paid and payable under this Contract. b. Professional indemnity insurance of <b>\$(insert figure)</b> <b>OR</b> <b>[three/five/ten]</b> times the total Fees paid and payable under this Contract.
<b>Changes to Schedule 2 and additional clause/s</b>	<b>[Set out any changes to clauses in Schedule 2 of this Contract. For example, are the time periods set for the meditation/termination processes in clauses 10 and 11 appropriate? If you require no changes, state 'None'. The new clause 17.2 below is added to ensure the Supplier doesn't cause the Buyer to breach the Privacy Act 1993]</b> <b>New Clause 17.2:</b> "Further to the definition above, 'Confidential Information' of the Buyer includes personal information (as defined in the Privacy Act 1993) collected or held by the Supplier in relation to the Services."
<b>Attachments</b> Reference 'Contract documents' described at Page 1	<b>[Describe any attachments to this Contract. This includes any specific code of conduct, health &amp; safety or legislative requirement the Supplier must be aware of in providing the Services. Attach a copy and/or provide web address where the document can be located – otherwise state 'None']</b>

---

**From:** s9(2)(g)(i)  
**Sent:** Tuesday, 19 April 2016 3:46 p.m.  
**To:** Sara Brownlie [CASS]; Suzy Morrissey [TSY]  
**Subject:** RE: Government Inquiry into Foreign Trusts

Many thanks Sara.

Suzy - FYI

s9(2)(g)(i) | Tax Strategy | The Treasury  
s9(2)(g)(i)@treasury.govt.nz

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**From:** Sara Brownlie [CASS]  
**Sent:** Tuesday, 19 April 2016 3:05 p.m.  
**To:** s9(2)(g)(i)@treasury.govt.nz  
**Subject:** Fw: Government Inquiry into Foreign Trusts

Legal will action

Sent from my BlackBerry 10 smartphone.

---

**From:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Sent:** Tuesday, 19 April 2016 15:03  
**To:** Sara Brownlie [CASS]  
**Cc:** Sanja Lee [CASS]; Henry Clayton [TSY]  
**Subject:** RE: Government Inquiry into Foreign Trusts

Thanks Sara – yes, this is on our list to action.

Cheers

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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---

**From:** Sara Brownlie [CASS]  
**Sent:** Tuesday, 19 April 2016 2:57 p.m.  
**To:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Cc:** s9(2)(g)(i)@cass.govt.nz  
**Subject:** FW: Government Inquiry into Foreign Trusts

Can you please amend the delegations and submit to Gabs for approval.

## Sara Brownlie | Chief Financial Officer | Central Agencies Shared Services

Central Agencies Shared Services (CASS) delivers services to the Department of Prime Minister and Cabinet, State Services Commission and the Treasury.

Tel: +64 4 917 6083 | Mob s9(2)(a)

[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)

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---

**From:** s9(2)(g)(i)

**Sent:** Tuesday, 19 April 2016 2:48 p.m.

**To:** Sara Brownlie [CASS] <[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)>

**Cc:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>

**Subject:** RE: Government Inquiry into Foreign Trusts

Hi Sara,

Following on from this, Legal has advised that Suzy will need delegated authority for this appropriation – what are our next steps for seeking that authority?

Thanks

s9(2)(g)(i)

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---

**From:** Sara Brownlie [CASS]

**Sent:** Friday, 15 April 2016 3:04 p.m.

**To:** Emma Hicks [TSY] <[emma.hicks@treasury.govt.nz](mailto:emma.hicks@treasury.govt.nz)>; Bill Moran [TSY] <[Bill.Moran@treasury.govt.nz](mailto:Bill.Moran@treasury.govt.nz)>; Tim Ng [TSY] <[tim.ng@treasury.govt.nz](mailto:tim.ng@treasury.govt.nz)>

**Cc:** Alida McKay [CASS] <[Alida.McKay@cass.govt.nz](mailto:Alida.McKay@cass.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>; Jeremy Salmond [TSY] <[Jeremy.Salmond@treasury.govt.nz](mailto:Jeremy.Salmond@treasury.govt.nz)>; Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Timothy Roper [TSY] <[Timothy.Roper@treasury.govt.nz](mailto:Timothy.Roper@treasury.govt.nz)>; s9(2)(g)(i)

**Subject:** Government Inquiry into Foreign Trusts

[UNCLASSIFIED]

Hi

This email is to brief you on the financial implications of the establishment of the Government Inquiry into Foreign Trusts.

Summary: Propose a transfer from Departmental Policy Advice – Finance appropriation to a new appropriation Non Departmental Other Expense: Government Inquiry into Foreign Trusts.

Detail:

As this is a government inquiry, Finance (after discussions with the Legal and Tax team) have advised that a new non departmental appropriation needs to be established for estimated costs for 2015/16.

Given budget moratorium starts on 25 April and after that date there is not further opportunity to amend the 2015/16 budget, Finance's recommendation is that the appropriation is set at a conservative level to avoid the risk of unappropriated expenditure. The tax team have advised they think that \$150k will be sufficient.

On that basis, Finance have drafted financial recommendations which have been provided to the tax team to go over in a Treasury Report to Minister English and Minister Joyce. These still need to be reviewed and approved by Tim Roper, Treasury's Vote Analyst.

This has been discussed with Emma, Suzy, Adam, Jeremy, Tim and Alida.

Regards  
Sara

**Sara Brownlie | Chief Financial Officer | Central Agencies Shared Services**

Central Agencies Shared Services (CASS) delivers services to the Department of Prime Minister and Cabinet, State Services Commission and the Treasury.

Tel: +64 4 917 6083 | Mob s9(2)(a)

[Sara.Brownlie@cass.govt.nz](mailto:Sara.Brownlie@cass.govt.nz)

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- a. please immediately delete this email and notify the Treasury by return email or telephone (64 4 472 2733);
- b. any use, dissemination or copying of this email is strictly prohibited and may be unlawful.

---

**From:** Adam Wood [TSY]  
**Sent:** Thursday, 14 April 2016 5:59 p.m.  
**To:** Henry Clayton [TSY]  
**Subject:** FW: Gazette notice  
**Attachments:** 14042016161446-0001.pdf

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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a. please immediately delete this email and notify the Treasury by return email or telephone (64 4 472 2733); b. any use, dissemination or copying of this email is strictly prohibited and may be unlawful.

---

**From:** Suzy Morrissey [TSY]  
**Sent:** Thursday, 14 April 2016 5:48 p.m.  
**To:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Subject:** FW: Gazette notice

[UNCLASSIFIED]

Here's the draft Gazette that I have been working off...

Cheers

**Suzy Morrissey** | Team Leader, Tax Strategy | The Treasury  
Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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a. please immediately delete this email and notify the Treasury by return email or telephone (64 4 472 2733);  
b. any use, dissemination or copying of this email is strictly prohibited and may be unlawful.

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]  
**Sent:** Thursday, 14 April 2016 4:15 p.m.  
**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>  
**Subject:** Gazette notice

Here is the example I was given (with my value-add!).

Cheers  
Paul



**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

## Establishment of the Government Inquiry into the Whey Protein Concentrate Contamination Incident

Pursuant to section 6(3) of the Inquiries Act 2013, I, The Honourable Nathan Guy, Minister for Primary Industries, and I, The Honourable Nikki Kaye, Minister for Food Safety, hereby establish the Government Inquiry into the Whey Protein Concentrate Contamination Incident ("Inquiry").

### Membership

The following persons are appointed to and constitute the Inquiry:

- Miriam Rose Dean, CNZM QC (chairperson);
- Dr Anne Marie Astin, PSM (member); and
- Anthony John Nowell, CNZM (member).

### Terms of Reference

#### Background

New Zealand has a reputation as a credible and trusted supplier of safe and suitable food to both domestic and international markets. This well-deserved reputation is a vital element in the continuing growth and productivity of the food industry.

Exporting food is critical to New Zealand's economy, with the food industry making up half of New Zealand's merchandise export value. New Zealand has an excellent track record of exporting safe food, and our food safety system is considered world-leading.

The whey protein concentrate ("WPC") contamination incident risks damaging the reputation we have worked hard to gain.

This Inquiry is about strengthening an already strong system, to ensure that New Zealand food products retain their status as among the world's safest and most desired.

#### Appointment and Order of Reference

This Inquiry will inquire into and report (making any recommendation it thinks fit) upon the following:

*Inquiry into how the potentially contaminated whey protein concentrate entered the New Zealand and international markets, and how this was subsequently addressed*

- (a) In relation to this incident of potential contamination of whey protein concentrate at Fonterra's Hautapu plant in 2012:
  - (i) The causes of this incident;
  - (ii) the practices used at each stage, from sourcing the raw material to products containing the whey protein concentrate entering the market;
  - (iii) the timeline of steps taken by Fonterra, and any other party, with regard to testing and reporting the potential contamination of whey protein concentrate;
  - (iv) the implementation of contingency plans for food safety incidents by Fonterra;
  - (v) Fonterra's history as a significant manufacturer and exporter of safe dairy products; and
  - (vi) an examination of the response of the regulator (that is, what actually happened).

This part of the Inquiry will not be undertaken until the Ministry for Primary Industries' (MPI) compliance investigation is completed, subject to any views the Inquiry reaches on the application of section 16 of the Inquiries Act 2013.

This part of the Inquiry will rely on findings of fact from the MPI compliance investigation and supplement this as required.

#### *Inquiry into regulatory and best practice requirements*

- (b) The requirements of any Acts, Regulations, or other laws, or of any recognised practices, that govern the following aspects of food safety against the background of this incident in relation to the dairy industry, including how those legal and practice requirements interact with each other:
  - (i) Quality and integrity of product testing;
  - (ii) traceability requirements, including the requirements across the supply chain to retailers;
  - (iii) reporting and risk management decision-making;
  - (iv) implementation of food safety standards;
  - (v) contingency plans for food safety and food quality;
  - (vi) role of regulators, including any recognised agency; and
  - (vii) potentially affected products, including infant formula.
- (c) How the matters referred to in paragraphs (b)(i)–(vii) above compare with similar matters in other comparable jurisdictions.

#### *Matters Upon or for Which Recommendations Required*

The Inquiry will report on and make any recommendations it considers fit on:

- (a) the adequacy of legal and best practice requirements with regard to product testing, traceability, reporting, implementation of food safety standards, contingency planning and role of regulators (refer to paragraphs (b)(i)–(vii) and paragraph (c) above);
- (b) any legal or regulatory changes or additions necessary and desirable to prevent or minimise similar incidents; and
- (c) any changes or additions to operational practices for product testing, traceability, reporting, implementation of food safety standards, contingency planning and response of regulators, to address the lessons from this incident.

#### *Exclusions From Inquiry and Scope of Recommendations*

The Inquiry is not to inquire into, determine, or report in an interim or final way, or otherwise prejudice any of the following matters:

- (a) The Ministry for Primary Industries' investigation into the compliance with any legal or practice requirements;
- (b) whether any questions of liability arise; and
- (c) the legislative structure of the New Zealand dairy industry.

#### *Definitions*

"Practice" or "practices" includes, without limitation, each of the following:

- (a) Decision-making;
- (b) procedures;
- (c) processes;
- (d) services; and
- (e) systems.

#### *Reporting Sequence*

The Inquiry is to report findings and opinions, together with recommendations, required and otherwise, that it thinks fit to make in respect of them, to the appointing Ministers in writing in the following sequence:

(a) Inquiry into regulatory and best practice requirements:

(i) An interim report is to be provided by no later than three months after notification of the Government Inquiry in the *New Zealand Gazette*;

(ii) a final report is to be provided at a date to be specified by the appointing Ministers, following the conclusion of the Ministry for Primary Industries' investigation and any subsequent Court action;

(b) Inquiry into how the potentially contaminated whey protein concentrate entered the New Zealand and international markets, and how this was subsequently addressed, at a date to be specified by the appointing Ministers, following the conclusion of the Ministry for Primary Industries' investigation and any subsequent Court action.

*Consideration of Evidence*

The Inquiry may begin considering evidence on and from **12 September 2013**.

Dated at Wellington this 10th day of September 2013.

HON NATHAN GUY, Minister for Primary Industries.

HON NIKKI KAYE, Minister for Food Safety.

go5757

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**From:** Henry Clayton [TSY]  
**Sent:** Friday, 15 April 2016 12:52 p.m.  
**To:** Jeremy Salmond [TSY]  
**Cc:** Adam Wood [TSY]  
**Subject:** FW: Draft memo  
**Attachments:** s9(2)(g)(i)

FYI

Also **attached** is the memo form Paul with the IRD wording

**Henry**

---

**From:** Henry Clayton [TSY]  
**Sent:** Friday, 15 April 2016 12:51 p.m.  
**To:** 'Paul Kilford' <Paul.Kilford@parliament.govt.nz>; Steve Mack [TSY] <Steve.Mack@treasury.govt.nz>; Suzy Morrissey [TSY] <Suzy.Morrissey@treasury.govt.nz>  
**Cc:** Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>  
**Subject:** RE: Draft memo

*Confidential and legally privileged*

Hi all,

s9(2)(h)

Kind regards,

**Henry Clayton** | Senior Solicitor | **The Treasury**

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 12:13 p.m.

**To:** Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Cc:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>; Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>;

Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>

**Subject:** RE: Draft memo

I thought it should be in at least the appointment letter and the Gazette notice. My view is that the latter seems important because we want to try to tap into s15(3) of the Inq Act by making the restrictions part of “the instrument that establishes an inquiry”.

Paul

---

**From:** Steve Mack [TSY] [<mailto:Steve.Mack@treasury.govt.nz>]

**Sent:** Friday, 15 April 2016 12:07 p.m.

**To:** Paul Kilford

**Subject:** RE: Draft memo

s9(2)(h)

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 12:05 p.m.

**To:** Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Subject:** RE: Draft memo

Just sent this to Suzy. Yes, confidentiality should be included everywhere!

---

**From:** Steve Mack [TSY] [<mailto:Steve.Mack@treasury.govt.nz>]

**Sent:** Friday, 15 April 2016 11:58 a.m.

**To:** Paul Kilford

**Subject:** FW: Draft memo

Paul-

s9(2)(h)

And can we see the Cabinet minute please?

Thanks

---

**From:** Henry Clayton [TSY]

**Sent:** Friday, 15 April 2016 11:47 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Cc:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>

**Subject:** RE: Draft memo

Hi all

Here is the update Gazette notice

s9(2)(h)

Henry

**Henry Clayton** | Senior Solicitor | **The Treasury**

Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Suzy Morrissey [TSY]

**Sent:** Friday, 15 April 2016 11:24 a.m.

**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>

**Subject:** FW: Draft memo

[IN-CONFIDENCE]

Paul's memo to which he referred on the phone...

**Suzy Morrissey** | Team Leader, Tax Strategy | **The Treasury**

Tel: +64 4 917 6292 | [Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)

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---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 11:22 a.m.

**To:** Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>

**Subject:** Draft memo

Hi

Here is the memo with the IRD confidentiality wording imbedded in the terms of reference. IRD has pointed out s9(2)(h)

s9(2)(h) Also, the "All members of the inquiry" wording will probably need to change to reflect the fact that there is just one inquirer.

They would also want to see this confidentiality wording replicated in whatever terms of engagement document is finally produced for Mr Shewan to sign.

Please email back with track changes as soon as you can (and call to discuss) and then I will circulate more widely.

Cheers

Paul

**Paul Kilford** | Tax Policy Advisor

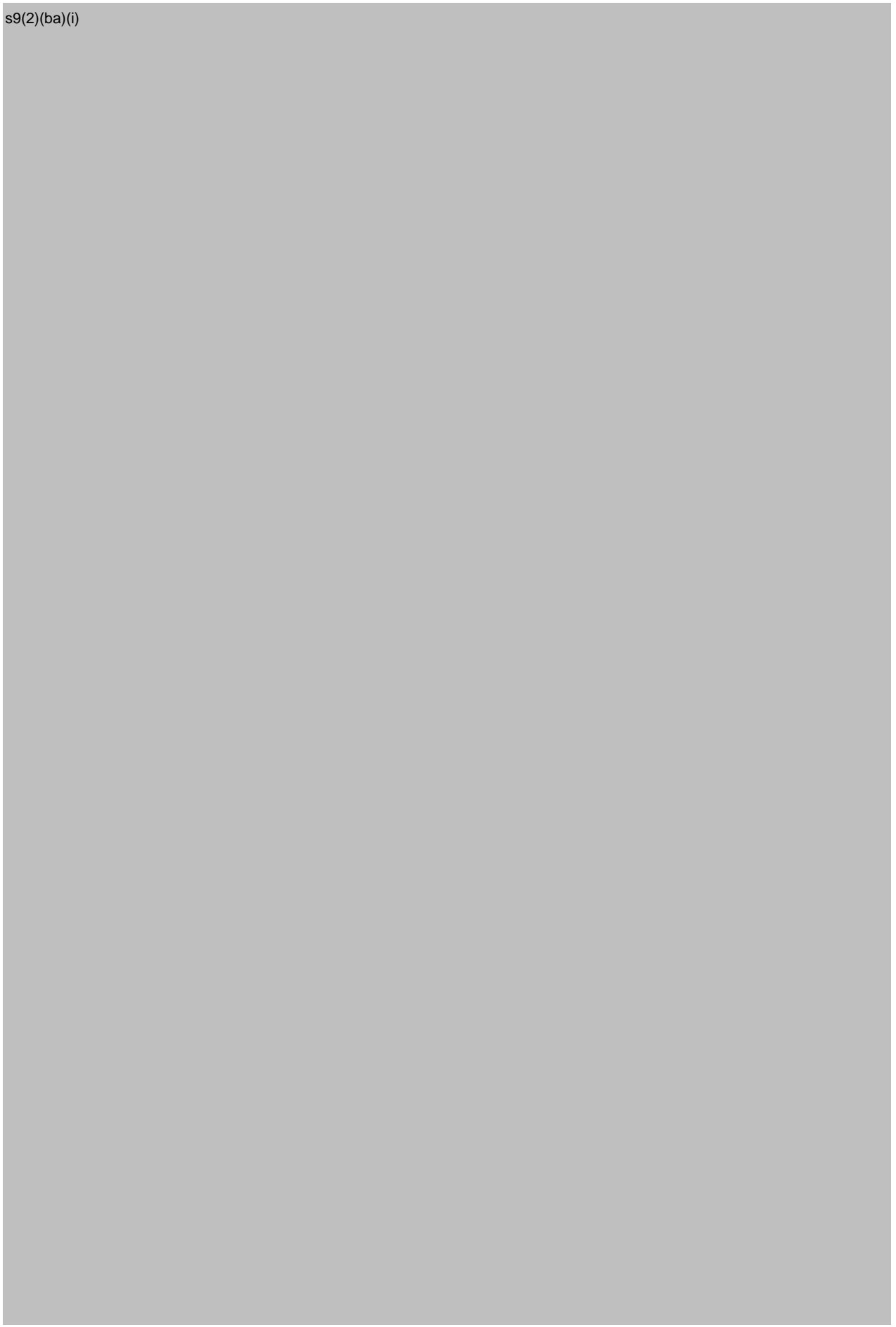
Office of Hon Bill English | Deputy Prime Minister, Minister of Finance  
7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

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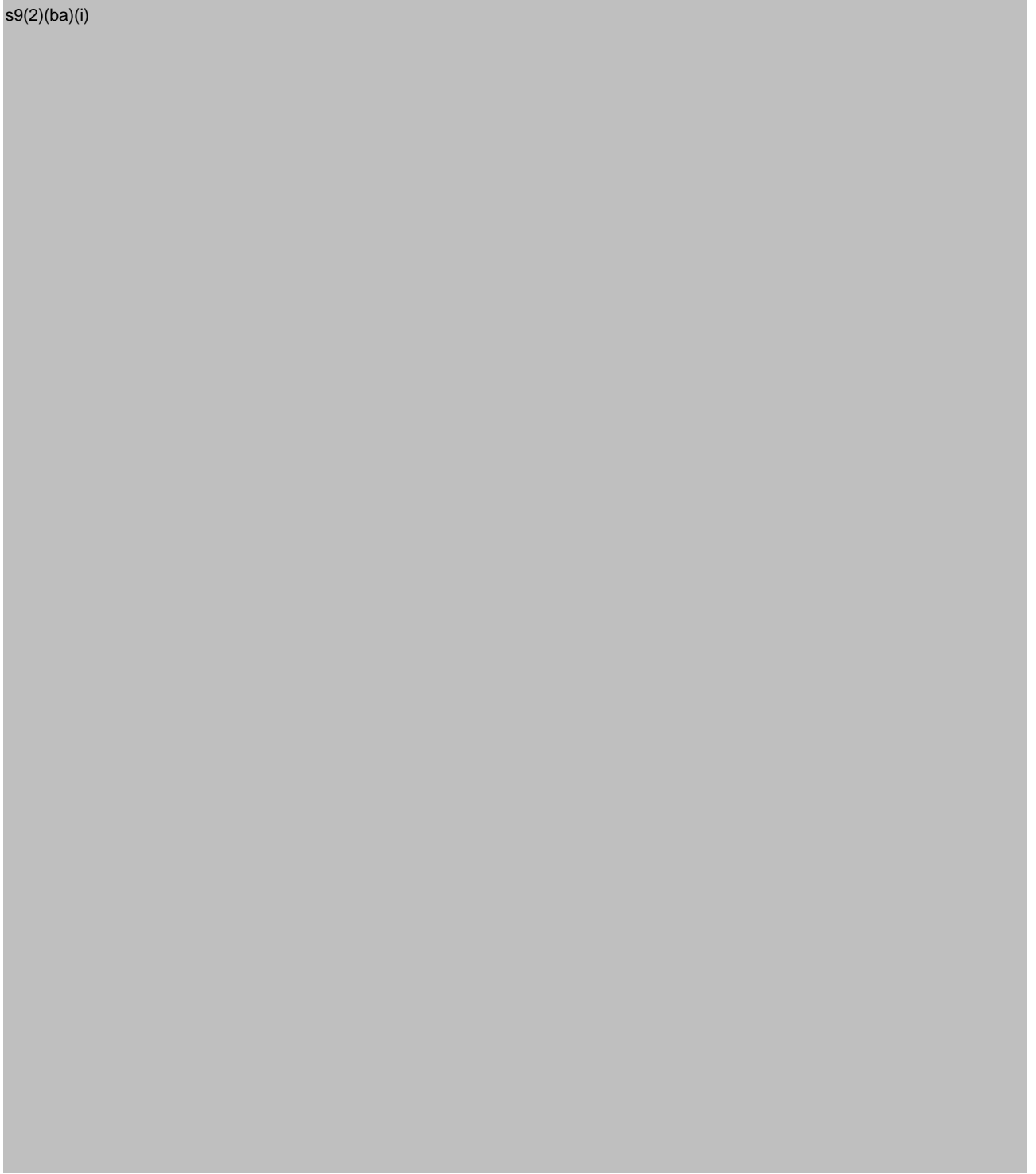
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s9(2)(ba)(i)






s9(2)(ba)(i)



s9(2)(ba)(i)



## **ESTABLISHMENT OF THE GOVERNMENT INQUIRY INTO FOREIGN TRUST DISCLOSURE RULES**

Pursuant to section 6(3) of the Inquiries Act 2013, The Honourable Simon William English, Minister of Finance, and The Honourable Michael Woodhouse, Minister of Revenue, hereby establish the Government Inquiry into Foreign Trust Disclosure Rules ("Inquiry").

### **Background**

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, in its combined Phase 1 and Phase 2 Peer Review Report of 2013, rated New Zealand "compliant" – the highest possible ranking.

As a result of the recent release of documents known as the 'Panama Papers', concerns have been raised about rules covering foreign trusts registered in New Zealand.

Cabinet has decided to initiate a review of New Zealand's disclosure rules relating to foreign trusts registered in New Zealand to ensure New Zealand's reputation as a country that cooperates with other jurisdictions to deter abusive tax practices is maintained.

### **Membership**

Mr John Shewan is appointed to and constitutes the Inquiry.

### **Terms of Reference**

The Inquiry will inquire into, report upon, and make any recommendations it considers it appropriate relating to:

- (a) New Zealand's existing foreign trust disclosure rules in the following areas:
  - (i) record-keeping requirements, including records required to be provided to the New Zealand government;
  - (ii) enforcement of the rules;
  - (iii) exchange of information with foreign jurisdictions; and
  - (iv) practices for complying with the rules;
- (b) whether New Zealand's foreign trust disclosure rules and the enforcement of those rules are fit for purpose;
- (c) whether the existing foreign trust disclosure rules and the enforcement of those rules are sufficient to ensure New Zealand's reputation as a country that cooperates with other jurisdictions to deter abusive tax practices is maintained, when considered alongside New Zealand's:
  - (i) commitment to the OECD action plan on base erosion and profit shifting (BEPS);

## IN-CONFIDENCE

- (ii) commitment to the Convention on Mutual Administrative Assistance in Tax Matters;
  - (iii) commitment to implementing the global standard for the automatic exchange of information (AEOI);
  - (iv) existing and planned bilateral tax treaty network (including tax information exchange agreements);
  - (v) anti-money laundering and countering financing of terrorism laws; and
  - (vi) other related regimes; and
- (d) options for enhancements to New Zealand's foreign trust disclosure rules and enforcement of those rules, including any practical improvements that could be made.

In these terms of reference:

- **foreign trust** has the meaning given to that term by the Income Tax Act 2007; and
- **foreign trust disclosure rules** means:
  - any laws of New Zealand requiring trustees of a foreign trust, or their agents or advisors, to provide information to any New Zealand government agency, and includes (without limitation):
    - laws for the enforcement of those requirements; and
    - the reporting and disclosure obligations of a resident foreign trustee (as defined in the Tax Administration Act 1994) of a foreign trust; and
  - the New Zealand government's obligations to provide information it holds about foreign trusts to tax authorities from other jurisdictions.

s9(2)(h)

### Reporting

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**.

Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

**Consideration of Evidence**

The Inquiry may begin considering evidence on and from [DATE OF GAZETTE PUBLICATION].

**Relevant Department**

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this ... day of April 2016.  
HON SIMON WILLIAM ENGLISH, MINISTER OF FINANCE  
HON MICHAEL WOODHOUSE, MINISTER OF REVENUE

s9(2)(h)



---

**From:** Graham Tubb <Graham.Tubb@ird.govt.nz>  
**Sent:** Monday, 18 April 2016 4:11 p.m.  
**To:** Henry Clayton [TSY]; Sarah Simmiss; Samantha Aldridge  
**Cc:** Adam Wood [TSY]; 'Paul Kilford'; Sarah Simmiss  
**Subject:** RE: URGENT - Memo and draft Gazette notice

Noted, we will wait and get the final position. Can you confirm that you are not waiting on anything from us at the moment?

Graham

---

**From:** Henry Clayton [TSY] [mailto:Henry.Clayton@treasury.govt.nz]  
**Sent:** Monday, 18 April 2016 3:54 p.m.  
**To:** Graham Tubb; Sarah Simmiss; Samantha Aldridge  
**Cc:** Adam Wood [TSY]; 'Paul Kilford'  
**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Graham,

s9(2)(h)

Kind regards,

**Henry Clayton** | Senior Solicitor | **The Treasury**  
Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Graham Tubb [mailto:Graham.Tubb@ird.govt.nz]  
**Sent:** Monday, 18 April 2016 2:56 p.m.  
**To:** Henry Clayton [TSY] <Henry.Clayton@treasury.govt.nz>  
**Cc:** Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>; 'Paul Kilford' <Paul.Kilford@parliament.govt.nz>; Samantha Aldridge <Samantha.Aldridge@ird.govt.nz>; Sarah Simmiss <Sarah.Simmiss@ird.govt.nz>  
**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Henry

We are happy with the changes. Its important that it now gets gazetted. s9(2)(h)

s9(2)(h)

Best regards

Graham

---

**From:** Henry Clayton [TSY] [<mailto:Henry.Clayton@treasury.govt.nz>]  
**Sent:** Monday, 18 April 2016 1:59 p.m.  
**To:** Graham Tubb; Sarah Simmiss  
**Cc:** Adam Wood [TSY]  
**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Graham,

Edits attached.

Tracking is on what Paul sent Peter Gunn on Friday.  
Our tracking tweaks some of Paul's wording slightly.

s9(2)(h)

Cheers.

**Henry Clayton** | Senior Solicitor | **The Treasury**

Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Graham Tubb [<mailto:Graham.Tubb@ird.govt.nz>]

**Sent:** Monday, 18 April 2016 1:05 p.m.

**To:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>

**Cc:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>; Sarah Simmiss <[Sarah.Simmiss@ird.govt.nz](mailto:Sarah.Simmiss@ird.govt.nz)>

**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Henry

s9(2)(h)

I also agree about the letter to John, which should include similar wording

Regards

Graham

---

**From:** Henry Clayton [TSY] [<mailto:Henry.Clayton@treasury.govt.nz>]

**Sent:** Monday, 18 April 2016 12:46 p.m.

**To:** Graham Tubb

**Cc:** Adam Wood [TSY]

**Subject:** RE: URGENT - Memo and draft Gazette notice

[IN-CONFIDENCE]

Hi Graham



I understand Paul Kilford has spoken to you.

Do you want to edit the documents to action Peter's advice, or would you like me to? (Just want to check we're not doubling up on work.)

After we agree the changes, I suggest we run them past Peter Gunn again. I have told Paul that's what we're doing. I will also call Peter shortly to let him know to expect this is coming.

Kind regards,

**Henry Clayton** | Senior Solicitor | **The Treasury**

Tel: +64 4 890 7286 | [Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Monday, 18 April 2016 12:11 p.m.

**To:** 'Peter Gunn' <[Peter.Gunn@crownlaw.govt.nz](mailto:Peter.Gunn@crownlaw.govt.nz)>

**Cc:** Henry Clayton [TSY] <[Henry.Clayton@treasury.govt.nz](mailto:Henry.Clayton@treasury.govt.nz)>; Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>; Suzy Morrissey [TSY] <[Suzy.Morrissey@treasury.govt.nz](mailto:Suzy.Morrissey@treasury.govt.nz)>; Steve Mack [TSY] <[Steve.Mack@treasury.govt.nz](mailto:Steve.Mack@treasury.govt.nz)>; Jeremy Salmond [TSY] <[Jeremy.Salmond@treasury.govt.nz](mailto:Jeremy.Salmond@treasury.govt.nz)>; Jessica Gorman <[Jessica.Gorman@crownlaw.govt.nz](mailto:Jessica.Gorman@crownlaw.govt.nz)>; 'Graham Tubb' <[Graham.Tubb@ird.govt.nz](mailto:Graham.Tubb@ird.govt.nz)>

**Subject:** RE: URGENT - Memo and draft Gazette notice

Thanks Peter and Jess

To Treasury legal and Graham, please can you consult amongst yourselves and resubmit a Gazette notice and appointment letter to me as soon as possible. I have told the Gazette office I will get them a final copy early afternoon. If that is not possible for any reason, please let me know.

Thanks  
Paul

**Paul Kilford** | Tax Policy Advisor

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Peter Gunn [<mailto:Peter.Gunn@crownlaw.govt.nz>]

**Sent:** Monday, 18 April 2016 12:02 p.m.

**To:** Paul Kilford

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Suzy Morrissey [TSY]; 'Steve Mack [TSY]'; Jeremy Salmond [TSY]; Jessica Gorman

**Subject:** FW: URGENT - Memo and draft Gazette notice

Hi Paul

s9(2)(h)

s9(2)(h)



s9(2)(h)

Kind regards

**Peter Gunn**

Crown Counsel/Team Manager Constitutional and Human Rights Team

**Crown Law Te Tari Ture o te Karauna**

DDI: +64 4 494 5561

M: s9(2)(a)

[www.crownlaw.govt.nz](http://www.crownlaw.govt.nz)

---

**From:** Paul Kilford [<mailto:Paul.Kilford@parliament.govt.nz>]

**Sent:** Friday, 15 April 2016 17:50

**To:** Peter Gunn

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Suzy Morrissey [TSY]; 'Steve Mack [TSY]'; Jeremy Salmond [TSY]

**Subject:** RE: URGENT - Memo and draft Gazette notice

Peter

Attached is the version of the memo that will be sent to Ministers for their consideration. The draft *Gazette* notice is the appendix to that document. Also attached is the draft appointment letter for Mr Shewan.

s9(2)(h)

Comments on this, and anything else you spot would be gratefully received on Monday morning.

Kind regards

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) | F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Peter Gunn [<mailto:Peter.Gunn@crownlaw.govt.nz>]

**Sent:** Friday, 15 April 2016 3:05 p.m.

**To:** Dan Brown; Paul Kilford; 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Paul

My comments;

s9(2)(h)

Typo in memorandum (repetition “of either” in first line of third para under heading “Non-statutory Ministerial Inquiry”)

s9(2)(h)

Kind regards

**Peter Gunn**

Crown Counsel/Team Manager Constitutional and Human Rights Team

**Crown Law Te Tari Ture o te Karauna**

DDI: +64 4 494 5561

M: s9(2)(a)

[www.crownlaw.govt.nz](http://www.crownlaw.govt.nz)

---

**From:** Dan Brown [<mailto:Dan.Brown@dia.govt.nz>]

**Sent:** Friday, 15 April 2016 13:54

**To:** Paul Kilford; 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; Peter Gunn; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** RE: URGENT - Memo and draft Gazette notice

Hi Paul – good work under pressure!

Following on from our phone call here is a couple of comments:

You 'll want to touch base with SSC's Cabinet Fees Framework team and/or the Office of the Minister of State Services about whether anything is needed re an exception to the Cabinet fees framework. Sometimes there are some formalities required such as a letter from the commissioning Minister to the State Services Minister re the payment of a higher rate.

Regarding admin arrangements it is sensible for Treasury and IRD to provide admin support to the Inquiry given you are the subject matter experts. You'll need to think of appropriate arrangement about protocols and “Chinese Walls” to ensure that the Inquiry Head is able to (and is seen to be able to) provide frank and independent advice to Ministers (that may potentially differ to the preferred departmental positions of Treasury and IRD).

Regards

**Daniel Brown** | Policy Manager, Safer Communities

**Department of Internal Affairs Te Tari Taiwhenua**

Direct Dial: 04 494 0688 | Mobile: s9(2)(a)

46 Waring Taylor St | PO Box 805, Wellington 6140, New Zealand | [www.dia.govt.nz](http://www.dia.govt.nz)

---

**From:** Paul Kilford

**Sent:** Friday, 15 April 2016 1:27 p.m.

**To:** 'Tania Warburton [DPMC]'; Rachel Hayward; Anna Fleming [DPMC]; 'Mark Blackmore [DPMC]'; Peter Gunn; 'Suzy Morrissey [TSY]'; 'Steve Mack [TSY]'; Emma Grigg; 'Graham Tubb'; Samantha Aldridge; Carmel Peters; Jodie Cayford; Dan Brown

**Cc:** 'Henry Clayton [TSY]'; Adam Wood [TSY]; Sarah Simmiss

**Subject:** URGENT - Memo and draft Gazette notice

Hi everyone

Hopefully you are all expected to hear from me! Attached for your collective review is:

- Memo from MoF to other delegated Ministers seeking agreement to the scope and terms of the review;
- Draft *Gazette* notice.

The content of the memo tries to buy time for a formal review of the notice, but if people can turn this around as quickly as possible that would be appreciated.

Please also note that the terms of reference have been redrafted into slightly more formal language than was used in the PR on Monday. I am running this revised language by Mr Shewan to ensure that we are not seen to be inadvertently narrowing the scope of the inquiry.

**To the IRD legal team,** s9(2)(h)

s9(2)(h)

**To DIA,** can you please confirm you are happy with the remuneration amounts and the Treasury/IRD secretariat wording.

I look forward to hearing from you. Ideally I will have a final version of these documents to email to MoF for his final approval by around **3pm**.

Apologies for the unreasonably deadline and thanks in advance

Paul

**Paul Kilford | Tax Policy Advisor**

Office of Hon Bill English | Deputy Prime Minister, Minister of Finance

7.6 Beehive, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

T: 04 817 9926 | s9(2)(a) F: 04 817 6501 | E: [paul.kilford@parliament.govt.nz](mailto:paul.kilford@parliament.govt.nz)

---

**From:** Adam Wood [TSY]  
**Sent:** Monday, 18 April 2016 6:02 p.m.  
**To:** Peter Gunn; Henry Clayton [TSY]  
**Cc:** Jessica Gorman  
**Subject:** s9(2)(h)

[IN-CONFIDENCE]

Thanks Peter – very helpful.

Kind regards

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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**From:** Peter Gunn [mailto:Peter.Gunn@crownlaw.govt.nz]  
**Sent:** Monday, 18 April 2016 5:39 p.m.  
**To:** Adam Wood [TSY] <Adam.Wood@treasury.govt.nz>; Henry Clayton [TSY] <Henry.Clayton@treasury.govt.nz>  
**Cc:** Jessica Gorman <Jessica.Gorman@crownlaw.govt.nz>  
**Subject:** s9(2)(h)

Hi Adam

s9(2)(h)

Kind regards

**Peter Gunn**

Crown Counsel/Team Manager Constitutional and Human Rights Team

**Crown Law *Te Tari Ture o te Karauna***

DDI: +64 4 494 5561

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**From:** Kelley Reeve [SSC]  
**Sent:** Friday, 15 April 2016 2:24 p.m.  
**To:** Adam Wood [TSY]  
**Subject:** Declarations of interest

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[UNCLASSIFIED]

Hello Adam

I am aware the appointment letters and the Cabinet paper both referred to a disclosure process. However, I have searched the Smith / Traynor records and cannot locate a specific document or template for the declaration of potential conflicts. The Cabinet paper was accompanied by template Cab50/01 which set out whether there were any known conflicts at that time. With the MPI/Fonterra WPC80 Inquiry a register of conflicts of interests was maintained throughout.

One avenue to explore could be DIA Dan Brown. I haven't been in touch with him for a long time but he may be a possible helpful source.

**Daniel Brown** | Manager, Crown Entity Monitoring and Appointments  
**Department of Internal Affairs Te Tari Taiwhenua**  
Direct Dial: 04 494 0688 | Mobile: s9(2)(a)

Kelley Reeve  
Executive Director  
Government Inquiry – Smith/Traynor  
(04) 495-6633



---

**From:** s9(2)(a)  
**Sent:** Friday, 15 April 2016 2:11 p.m.  
**To:** Adam Wood [TSY]  
**Cc:** Kelley Reeve [SSC]; Andrew Gane [SSC]  
**Subject:** Re: Inquiry

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Adam,

Probably the most comprehensive was the document we used for Pike River, where there was the potential for perceived conflict for one Commission member in particular. In a moment I will forward you the covering email from our Executive Director (Vanessa Johnson, who was seconded from IRD), which described the Pike framework - but unfortunately I no longer have access to the document itself. It was based on the framework used for the Victorian Bushfires Royal Commission, which is publicly available here:

<http://www.royalcommission.vic.gov.au/Commission-Reports/Final-Report/Volume-3/Chapters/Risk-and-Financial-Management.html>

I have also pasted it below. While the Victorian framework was aimed at Commission staff, I believe the Pike Framework picked up on this and applied it to everyone including the Commissioners.

Kelley is trying to dig up relevant material from the more recent Inquiries, and I will also dig around to see if there is anything else I can send you.

Best,

s9(2)(a)

## 4.2 RELATED INTERESTS AND CONFLICT OF INTEREST

---

The independence and integrity of the Commission were essential to the influence, acceptance and legacy of its work. The Commission's related interest and conflict of interest framework—called the Col Framework—was designed to maintain public confidence, to ensure impartiality in all aspects of the Commission's work, and to be seen as impartial by the wider community. The Col Framework was developed in early 2009 with the assistance of probity specialists O'Connor, Marsden and Associates.

The framework encouraged transparency and accountability, promoted individual responsibility, and created a supportive organisational culture. It referred to the following:

- the Code of Conduct for Victorian Public Sector Employees
- the State Services Authority's *Good Practice Guide on Governance for Victorian Public Entities*
- the Victorian Ombudsman's report entitled *Conflict of Interest in the Public Sector*
- the OECD's *Guidelines for Managing Conflict of Interest in the Public Service: Report on Implementation*.

The framework applied to all personnel engaged by or for the Commission as an employee, contractor or consultant. It helped individuals working with the Commission understand, identify and disclose any related interest or conflict of interest pertaining to their involvement, and it provided a clear and consistent basis for any associated risks to be managed and mitigated.

The framework recognised that a conflict of interest can be actual, potential or perceived and applied to an individual's pecuniary and non-pecuniary interests. It was also recognised that a conflict can arise as a result of someone's personal associations (or related interests)—including a spouse or de facto partner, an immediate family member, a close friend or an employer.

The existence of an unmitigated conflict of interest could attract scrutiny or criticism, so all individuals working for or providing services to the Commission were required to disclose any involvement, on their part or that of their associates, in the bushfire-related events of 7 February 2009 and following, or any involvement with, or interest in, an organisation or group that was, or could be, affected by the Commission's work. In practice, this meant that all who were working with the Commission were required to do three things:

- disclose any conflict of interest or related interest
- sign a deed of confidentiality
- undergo a national police records check.

The HR adviser and the CEO assessed each declaration and records check. Where something was identified as giving rise to an actual, potential or perceived conflict of interest, the most suitable strategy for dealing with this was determined and discussed with the individual concerned. All risks were reviewed periodically, and individuals were called on to advise the Commission of any change in their personal circumstances.

It is important to note that the existence of a related interest was not grounds for automatic exclusion from the Commission. The magnitude and impact of the 2009 fires were such that, as in the broader community, many Commission personnel knew directly or through associates someone affected. Similarly, many knew or knew of people involved in the response, relief and recovery efforts or in other activities, including as a party to the Commission.

Devising the appropriate mitigation and management strategy depended on the nature of the related interest. In most cases this simply involved the interest and the mitigation strategy being placed in the Conflict of Interest Register. In a small number of instances stronger action was required, including the following:

- A candidate in a recruitment process was excluded because an actual conflict of interest was identified.
- It was assessed as inappropriate for an individual who knew someone who had died in the fires to work on the inquiries into the fire-related deaths.
- In response to changing circumstances, the potential for a perceived conflict of interest arose and an individual ceased work at the Commission.
- On the basis of the potential for a perceived conflict of interest an individual was excluded from any participation in a specific topic of inquiry and the associated records.

Counsel assisting was not subject to the Col Framework: the Victorian Government Solicitor's Office would have discussed any potential conflicts of interest that might have disqualified counsel before their engagement with the Commission.

A particular conflict of interest did arise in relation to e.law and required specific action. e.law advised the Commission that several parties with leave to appear had approached it in connection with the provision of document management services to support the parties' engagement with and appearance before the Commission.

With the assistance of a specialist probity consultant, the Commission and e.law agreed on a mitigation strategy that required disclosure of requests by e.law and approval in writing from the

Commission to provide services to third parties with an interest in the proceedings. e.law was also required to implement 'separations' within its business in order to protect the interests of the Commission and those of the other parties. This involved e.law staff who were working at the Commission not working at a second site and all personnel being trained in protocols relating to business practice separation.

Ultimately, there was only one third party relationship that was subject to this regime. The Victorian Government Solicitor's Office retained e.law to assist with processing material to be provided to and received from the Commission. The Commission approved the engagement but had no role in or knowledge of the contractual arrangements between e.law and the VGSO.

On 15/04/2016, at 1:43 PM, Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)> wrote:

[IN-CONFIDENCE]

Hi s9(2)(a)

Thanks – this is very helpful! One other question: Do you by any chance also have any documentation you can share with us which requests members of the Inquiry to declare any relevant interests?

Many thanks

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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**From:** s9(2)(a)  
**Sent:** Friday, 15 April 2016 12:33 p.m.  
**To:** Adam Wood [TSY] <[Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)>  
**Cc:** Kelley Reeve [SSC] <[Kelley.Reeve@ssc.govt.nz](mailto:Kelley.Reeve@ssc.govt.nz)>  
**Subject:** Re: Inquiry  
**Importance:** High

Hi Adam,

Here are three examples of recent appointment letters: Miriam Dean QC, Hon John Priestley QC, and Mel Smith (split into two letters). We have a checklist of things to consider/work through during the establishment phase of an Inquiry, and would be happy to work through it with you / Mr Shewin if that would be helpful. I will be back in Wellington on Tuesday/Wednesday next week in case you would like to take us up on that.

Best,  
Simon / Kelley

---

**From:** s9(2)(a)  
**Sent:** Friday, 15 April 2016 11:33 a.m.  
**To:** Adam Wood [TSY]  
**Cc:** Kelley Reeve [SSC]; Andrew Gane [SSC]  
**Subject:** Re: Inquiry

**Importance:** High

**Follow Up Flag:** Follow up

**Flag Status:** Flagged

Hi Adam,

Just following up, Kelley and I available this afternoon and happy to assist. We should be able to dig up some previous appointment letters, and can run through some of the things the Inquiry member(s) / agencies will want to consider during the establishment phase and beyond. Happy to come across the road to you if that's easiest.

Best,

s9(2)(a)



On 15/04/2016, at 11:24 AM, Andrew Gane [SSC] <[Andrew.Gane@ssc.govt.nz](mailto:Andrew.Gane@ssc.govt.nz)> wrote:

[IN-CONFIDENCE]

Adam as advised our two inquiry people are here today if you want to discuss setting up a government inquiry  
Simon provides legal expertise s9(2)(a) and Kelly logistics expertise. They are both happy to talk to you

Hei konei ra

Andrew Gane  
Principal Solicitor  
Acting Chief Legal Advisor  
State Services Commission  
DDI: +64 4 495 6774  
Mob: s9(2)(a)  
Fax: +64 4 495 6686

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**From:** Adam Wood [TSY]  
**Sent:** Friday, 15 April 2016 11:15 a.m.  
**To:** Andrew Gane [SSC] <[Andrew.Gane@ssc.govt.nz](mailto:Andrew.Gane@ssc.govt.nz)>  
**Subject:** Inquiry

[IN-CONFIDENCE]

Hi Andrew

As discussed, we are assisting Ministers to establish an Inquiry under the Inquiries Act, which relates to a review of NZ's foreign trust disclosure rules. The review will be conducted by John Shewan.

The Minister of Finance and Minister of Revenue are intending to approve a Gazette notice on Monday (which as I understand it may then be gazetted in a Special Gazette notice) to establish the review. Paul Kilford in the Minister of Finance's office is preparing a memo to go to Ministers over the weekend which will include the draft Gazette notice and the appointment letter for Mr Shewan. I will ask Paul to copy you in on that note.

If you could provide me with Simon and Kelly's contact details that would help, as we may give them a call to see if they can provide us with any previous examples of appointment letters for members of inquiries. We have tried contacting Jodie Cayford at DIA about this, but she is away today.

Thanks

Adam Wood | Deputy Treasury Solicitor | The Treasury  
Tel: +64 4 890 7212 | [Adam.Wood@treasury.govt.nz](mailto:Adam.Wood@treasury.govt.nz)

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## Office of Hon Bill English

Deputy Prime Minister

Minister of Finance

Minister Responsible for HNZZ

18 April 2016

Mr John Shewan

s9(2)(a)

Dear Mr Shewan

### **Appointment to the Government Inquiry into Foreign Trust Disclosure Rules**

As the appointing Ministers for the Government Inquiry into foreign trust disclosure rules (the Inquiry), I am pleased to advise that you are appointed as the sole member of the Inquiry. Your appointment is made under the authority of section 6(3) of the Inquiries Act 2013 (the Act). This letter serves as the formal instrument of appointment.

Your term of appointment commences on 19 April 2016 and expires on 30 June 2016.

### ***The Inquiry***

As per section 7 of the Act, the Inquiry will be formally established by publication of a notice in the New Zealand Gazette.

The attached Gazette notice will be published shortly and you will be provided with a final copy of it as soon as possible. It sets out the Inquiry's focus, membership, the date on which the Inquiry may begin considering evidence and Terms of Reference. The duties, powers, immunities and privileges of a government inquiry are set out in the Act.

### ***Reporting dates***

The Terms of Reference specify that the Inquiry will provide its final report to appointing Ministers by 30 June 2016. Section 16 of the Act allows a government inquiry to be postponed or temporarily suspended, following consultation with us. If that occurs, we will also give consideration to amending the Terms of Reference regarding the final reporting date.

### ***Fees***

As the sole member of the Inquiry you will receive a fixed fee of \$1,500 plus GST, if any, per day. Actual and reasonable travel costs will also be paid.

Your appointment as a member of the Inquiry is at the pleasure of the Government. You should note that if, for any reason, we decide to terminate the Inquiry prior to its reporting date, the Government is required to pay you fees only for the time up to

termination. There is no obligation to compensate you for the early termination of the Inquiry.

### ***Resignation and removal***

You may, at any time, resign from office by writing to us as the appointing Ministers.

As appointing Ministers we may, by notice in the Gazette, remove you from office due to misconduct, an inability to perform the functions of your role or neglect of your duty.

### ***Confidentiality***

It is intended that the Inquiry may receive as evidence tax secret information from the Commissioner pursuant to a decision made under section 81(1B) of the Tax Administration Act 1994. The attached Gazette notice accordingly includes restrictions on access to certain evidence or submissions presented to the Inquiry.

To recognise the longstanding statutory limitations applicable to provision of information from or on behalf of the Commissioner of Inland Revenue, public access is restricted to any evidence or submissions received by the Inquiry from or on behalf of the Commissioner which identifies any person or their affairs or which the Commissioner otherwise identifies as confidential, as if sections 81 and 87 of the Tax Administration Act 1994 applied to the evidence or submission. You must make such orders under section 15 of the Inquiries Act 2013 as are necessary, and take other steps as are necessary (including you, and any officers of the Inquiry or other persons assisting you, entering into appropriate confidentiality agreements), to give effect to that restriction.

For the same reasons you must not identify in your report, and must not otherwise disclose or report on (including to us, the appointing Ministers), the identity of any persons whose affairs may have been disclosed by the Commissioner as part of any evidence or submission or disclose confidential evidence or submissions from the Commissioner.

### ***Conflicts of Interest***

As part of the appointment process you have declared various interests and agreed to abide by decisions made to manage any actual or potential conflicts of interest. If at any stage during your term of appointment you feel any conflicts of interest have arisen or may arise, please bring them to our attention.

Inland Revenue will provide a liaison person to assist the Inquiry with its dealings with the Department. Treasury will provide any additional administrative support to the Inquiry. If you require any specific information please contact Suzy Morrissey by telephone on 04 917 6292, mobile telephone on s9(2)(a) or by email at [suzy.morrissey@treasury.govt.nz](mailto:suzy.morrissey@treasury.govt.nz).

**IN-CONFIDENCE**

Thank you for agreeing to serve in this important matter. Please accept our best wishes for your term of appointment.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Bill English', with a stylized, cursive script.

Hon Simon William English  
Minister of Finance

A handwritten signature in blue ink, appearing to read 'Michael Woodhouse', with a stylized, cursive script.

Hon Michael Woodhouse  
Minister of Revenue





# New Zealand Gazette

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**TUESDAY, 19 APRIL 2016 — No. 33**

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## **CONTENTS**

### **GOVERNMENT NOTICES**

Departmental

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## Using the Gazette

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## GOVERNMENT NOTICES

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### Departmental

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#### Establishment of the Government Inquiry into Foreign Trust Disclosure Rules

Pursuant to section 6(3) of the Inquiries Act 2013, The Honourable Simon William English, Minister of Finance, and The Honourable Michael Woodhouse, Minister of Revenue, hereby establish the Government Inquiry into Foreign Trust Disclosure Rules ("Inquiry").

##### Background

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, in its combined Phase 1 and Phase 2 Peer Review Report of 2013, rated New Zealand "compliant" – the highest possible ranking.

As a result of the recent release of documents known as the 'Panama Papers', concerns have been raised about rules covering foreign trusts registered in New Zealand.

Cabinet has decided to initiate a review of New Zealand's disclosure rules relating to foreign trusts registered in New Zealand to ensure New Zealand's reputation is maintained.

##### Membership

John Shewan is appointed to and constitutes the Inquiry.

##### Terms of Reference

The Inquiry will inquire into, report upon, and make any recommendations it considers appropriate relating to:

- a. New Zealand's existing foreign trust disclosure rules in the following areas:
  - i. record-keeping requirements, including records required to be provided to the New Zealand Government;
  - ii. enforcement of the rules;
  - iii. exchange of information with foreign jurisdictions; and
  - iv. practices for complying with the rules;
- b. whether the existing foreign trust disclosure rules and the enforcement of those rules are sufficient to ensure New Zealand's reputation is maintained, when considered alongside New Zealand's:
  - i. commitment to the OECD action plan on base erosion and profit shifting (BEPS);
  - ii. commitment to the Convention on Mutual Administrative Assistance in Tax Matters;
  - iii. commitment to implementing the global standard for the automatic exchange of information (AEOI);
  - iv. existing and planned bilateral tax treaty network (including tax information exchange agreements);
  - v. anti-money laundering and countering financing of terrorism laws; and
  - vi. other related regimes; and
- c. options for enhancements to New Zealand's foreign trust disclosure rules and enforcement of those rules, including any practical improvements that could be made or other actions that could be taken.

In these terms of reference:

**foreign trust** has the meaning given to that term by the Income Tax Act 2007; and

**foreign trust disclosure rules** means:

- any laws of New Zealand requiring trustees of a foreign trust, or their agents or advisors, to provide information to any New Zealand government agency, and includes (without limitation):
  - laws for the enforcement of those requirements; and

- the reporting and disclosure obligations of a resident foreign trustee (as defined in the Tax Administration Act 1994) of a foreign trust; and
- the New Zealand Government's obligations to provide information it holds about foreign trusts to tax authorities from other jurisdictions.

### **Restrictions on Access to Certain Evidence or Submissions Presented to the Inquiry**

To recognise the longstanding statutory limitations applicable to provision of information from or on behalf of the Commissioner of Inland Revenue, public access is restricted to any evidence or submissions received by the Inquiry from or on behalf of the Commissioner which identifies any person or their affairs or which the Commissioner otherwise identifies as confidential, as if sections 81 and 87 of the Tax Administration Act 1994 applied to the evidence or submission. The Inquiry must make such orders under section 15 of the Inquiries Act 2013 as are necessary, and take other steps as are necessary (including having any officers of the Inquiry or other persons assisting the Inquiry enter into appropriate confidentiality agreements), to give effect to that restriction.

For the same reasons the Inquiry must not identify in its report, and must not otherwise disclose or report on (including to appointing Ministers), the identity of any persons whose affairs may have been disclosed by the Commissioner as part of any evidence or submission or disclose confidential evidence or submissions from the Commissioner.

### **Reporting**

The Inquiry is to report findings and opinions to the appointing Ministers in writing by **30 June 2016**.

Before that date, there shall be at least one interim meeting with one or both appointing Ministers to discuss progress.

### **Consideration of Evidence**

The Inquiry may begin considering evidence on and from **19 April 2016**.

### **Relevant Department**

For the purposes of section 4 of the Inquiries Act 2013, the Treasury is the relevant department for the Inquiry and responsible for administrative matters relating to the Inquiry.

Dated at Wellington this 18th day of April 2016.

HON SIMON WILLIAM ENGLISH, Minister of Finance.

HON MICHAEL WOODHOUSE, Minister of Revenue.

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