

OVERSEAS INVESTMENT REVIEW

Aims/objectives of review

The objective of the review is to create an overseas investment screening regime which addresses valid concerns about foreign investment simply and cost-effectively and does not unnecessarily deter the flow of investment into New Zealand. The review is part of the government's Regulatory Review Programme.

What the screening regime does

The Overseas Investment Act 2005 screens investments by overseas persons in sensitive New Zealand assets. Three categories of sensitive assets are covered by the regime: significant business assets, sensitive land and fishing quota. Broadly, business investments of in firms with assets of over \$100 million are screened. Overseas investments in land are screened if the land is or adjoins land listed as sensitive. Examples include non-urban land greater than five hectares, foreshore and seabed, land on islands, and land held for conservation purposes.

Problems with the current regime

Since the implementation of the 2005 Act, a number of problems have emerged with the operation of the investment screening regime. Compliance costs for investors have increased significantly, both time cost and financial cost in terms of legal fees and consultants. Some decisions, such as Auckland Airport, have created significant regulatory uncertainty. There is anecdotal evidence that the complexity of the screening regime is making overseas investors cautious about investing in New Zealand, or putting them off completely. The current regime also screens some investments that are not likely to be sensitive, such as land that adjoins local parks and reserves.

Summary of options and a possible revised package

The attached A3 sheet sets out a range of options for each of the issues considered in the review. Different aspects of the screening regime are set out in the columns, and options for each aspect are set out in the rows (with the status quo at the top).

Since the review was considered by Cabinet, a possible revised packaged of changes has been identified (as indicated by the red boxes). This package would achieve three main goals:

- simplifying the most complex aspects of the current regime (i.e. the sensitive land test and the offer back procedure for riverbed), without significantly affecting the potential to achieve benefits for New Zealand;
- replacing the current strategic assets test (where strategic assets were undefined) with a reserve power more in line with international practice; and
- removing screening for investments that are not particularly sensitive (such as land adjoining local parks and reserves).

Discussion points

- Are there particular proposals you would like to discuss in more detail?
- Are there particular proposals where you are unsure if the change would be worth making or where you have concerns?
- Are there other issues you would like to see considered in the review?