The Treasury

Overseas Investment Act Submissions Information Release

December 2019

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[23] 9(2)(a) - to protect the privacy of natural persons, including deceased people

[25] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information

[26] 9(2)(ba)(i) - to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied

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From: Tanya Markman [23]
Sent: Thursday, 23 May 2019 11:05 PM
To: Overseas Investment [TSY]
Subject: Submission on the Reform of the Overseas Investment Act 2005

Categories: OIA Submission

Overseas Investment Act Reform
The Treasury
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Wellington 6140

Thank you for the opportunity to submit comment on the proposed reform of the Overseas Investment Act 2005. Comments and suggestions will be itemised according to the three broad areas outlined by Treasury on this issue : what, who, and how we screen.

What We Screen

1. The use/taking of water - both above and below ground - does most certainly need to be included as a "sensitive asset". This is an absolute given and cannot be stressed enough. As a Cantabrian I know that the community in this region feels very strongly about water and the need to protect it – especially from foreign investment. There is a chequered history in this area that lays testament to this fact. The Ashburton council bottling plant fracas is but one example. On a national scale water usage, in all its myriad forms, is of major concern to all New Zealanders. Every application that involves the mining of water should be subject to screening, and any overseas investment application for water usage/taking should be subject to the "National Interest" test.
2. Our country's water, according to the government, doesn't seem to belong to any body. This idea needs changing. All water has a value and this value must be reflected in a cost when it is used. Overseas interests must pay a realistic price for consuming it and, where permission is given for this extraction, a time limit on this activity must be written into the contract.
3. This purchase price must reflect the costs involved in mitigating ALL environmental impacts that are derived from the operation (eg : environmentally acceptable disposal of plastic waste within New Zealand, depletion of underground aquifers, loss of "local jobs").

Who We Screen

1. Currently overseas investors are screened based on an "individual" category analysis. I consider it important to also include screening of corporations. It is vitally important that the screening of both categories of applicants(individuals and companies) be enlarged to include their environmental, social, and ethical history and its impact on New Zealand and New Zealanders. We do not want individuals/companies coming into New Zealand where they have a history of tax evasion, worker exploitation(ie: paying below minimum wage, or disadvantaging the local workforce by bringing in labour from overseas).
2. All successful applications must pass a strict and comprehensive criteria – the detail of which needs to have the input of an array of regulators (councils, iwi, NGOs, and a regulatory body specifically designed to oversee the criteria), plus input from the general public.
3. Overseas investment has become an integral part of this country's economy but not all foreign investment is necessarily good. Priority should be given to those overseas investors who include long term "socially green" scenarios in their investment offers. This must be IN ADDITION to their acquisition price. This process needs to be totally transparent. Successful approval should be conditional upon disclosure of all relevant and important documentation :
    a. Purchase price
    b. Company/individual track record including : taxes paid, taxes evaded, and equity funds owned
    c. Previous compromising environmental history

4. Bottling plants produce thousands of plastic bottles every day they operate. In todays world this is no longer ethically, environmentally, or socially acceptable. Thus acceptable applications for water bottling plants must in future be severely restricted. The loophole in current legislature allowing overseas companies/individuals to buy up existing water rights must be plugged. This is wholly imperative.
5. The act needs to be extended whereby “sensitive areas” should include land purchased below the current 5 ha threshold.

How We Screen

1. The Overseas Investment Act should not be the only governing legislation that determines who are successful overseas investment candidates. There needs to be an independent body set up, separate from the Overseas Investment Office, with sufficient power to be able to regulate decisions made. This body should liaise fully with councils (district and regional) under the framework of the Resource management Act.
2. Consultation with the New Zealand public must be given a louder voice when amendments such as this are under scrutiny. The public meeting held in Christchurch organised by Treasury and the Overseas Investment Office aimed at informing the public on this imminent amendment of the act was attended by only a handful of people.
3. The definition of foreign ownership needs to be reduced from the current 24.9 percent to 10 percent.
4. The $100 million threshold for overseas investors should also be adjusted. Downwards. $10 million can still buy a lot of valuable land in New Zealand.
5. I support the suggestion that enables decision makers to assess the implications of overseas investment applications.
6. I support the continued practice of requiring farmland to be advertised for sale on the open market before it can be acquired by an overseas investor.
7. I do not support the idea of having binding time frames for consent. This would eat away at the contribution garnered by public opinion in the decision making process.

In conclusion, it is important to remember that, whatever changes to the act are made, overseas investment must always be of a nature that benefits New Zealanders, and must always be considered from a long term perspective.

TRANSPARENT ENVIRONMENTAL RESPONSIBILITY MUST ALWAYS COME BEFORE INVESTMENT OPPORTUNITY

Sincerely
Tanya Markman

I would be happy to voice my suggestions/opinions via a phone call – if this opportunity were to arise.