

The Treasury

Reform of the Overseas Investment Act Information Release

July 2020

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- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [29] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [31] 9(2)(f)(ii) - to maintain the current constitutional conventions protecting collective and individual ministerial responsibility
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [36] 9(2)(h) - to maintain legal professional privilege
- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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Reference: T2018/3739 IM-5-3-8

Date: 17 December 2018

To: Minister of Finance (Hon Grant Robertson)
Associate Minister of Finance (Hon David Parker)

Deadline: None

Revised timeframes for Phase Two of the Overseas Investment Act reforms

Purpose

This note outlines the impact of revised timeframes for the Phase Two reform of the Overseas Investment Act 2005, following Minister Parker's meeting with officials on Monday, 10 December 2018.

Timeframes for preparing the discussion paper will still be tight but there is now more time to develop the package of reform

The updated timeframes are based on:

- obtaining Cabinet's agreement to a package of reforms by the end of October 2019 (this is scheduled for 4 November 2019 due to a recess week at the end of October); and
- first reading of the Overseas Investment Amendment Bill during April 2020.

We have allowed an additional week for preparing the discussion paper, with it being considered by Cabinet before the two-week April recess. The timeframe for developing, consulting on and submitting policy proposals to Cabinet has been extended from two months to four and a half months.

This is still an extremely tight timeframe given the scale and complexity of the potential reforms.

We note that you have also asked us to investigate whether there is scope in the general 'national security exemption' in New Zealand's free trade agreements to screen business assets not currently subject to screening under the Act. This may lead to more work if the Ministry of Foreign Affairs and Trade advise that there is scope and you wish to include consideration of this option as part of the Phase Two reforms.

At this stage, we consider there will be sufficient time to consider the full range of issues in the Terms of Reference (though as we have previously advised there is little scope for delay at any point in the process). We will monitor progress and advise you if the situation changes.

Our ability to consider additional technical issues raised by stakeholders will depend on whether we can scale up resources sufficiently quickly in the New Year.

Phase Two timeframes

The table below shows the timing of key milestones. Annex One sets out the detailed project plan.

Milestone	Timing
Policy development and drafting of discussion document	November 2018 – February 2019
Discussion document to Ministers	Early March 2019
Release of discussion document (post-DEV consideration)	19 April 2019
Consultation closes on discussion document	Mid-May 2019
Treasury report to Minister Parker on proposals for reform	Early August 2019
DEV paper: Proposals for reform	October 2019
Legislative drafting	November 2019 – March 2020
LEG consideration of Bill	March 2020
Introduction of Bill	April 2020
Select Committee consideration of Bill	April 2020 – July 2020
Bill passed	July 2020

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