

# The Treasury

## Overseas Investment Amendment Regulations (No 2) Information Release

August 2020

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### Cabinet Document Details

Title: **Cabinet Minute: LEG-20-MIN-0098: Overseas Investment Amendment Regulations (No 2)**

Date: **21 July 2020**

Creator: Cabinet Office

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- [1] 6(a) – to protect the security or defence of New Zealand or the international relations of the Government of New Zealand
- [33] 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [36] 9(2)(h) - to maintain legal professional privilege

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# Cabinet Legislation Committee

## Minute of Decision

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### Overseas Investment Amendment Regulations (No 2) 2020

**Portfolio**                      **Associate Finance (Hon David Parker)**

On 21 July 2020, the Cabinet Legislation Committee:

- 1        **noted** that in November 2019, the Cabinet Economic Development Committee (DEV) agreed to:
  - 1.1        extend the existing exemption for less than 10 per cent increases in shareholding (the ‘shareholder creep’ exemption), and
  - 1.2        remove retirement schemes from the definition of overseas person;

[DEV-19-MIN-0306]
- 2        **noted** that in May 2020, DEV:
  - 2.1        agreed to:
    - 2.1.1        only apply the temporary emergency notification regime to investments in existing businesses and certain business assets; and
    - 2.1.2        extend the existing exemption for portfolios or bundles of permitted security arrangements to apply to transactions involving significant business assets;
  - 2.2        authorised the Associate Minister of Finance (Hon David Parker) to make decisions on additional policy or drafting issues;

[DEV-20-MIN-0066]
- 3        **noted** that the Associate Minister of Finance (Hon David Parker) has decided to:
  - 3.1        introduce a power for the regulator to refund fees in limited circumstances where an investor has paid a fee in advance that will not be used by the regulator as a result of the Urgent Measures Act amendments;
  - 3.2        introduce a new fee of \$52,000 for transactions of national interest,<sup>[33]</sup>
  - 3.3        clarify that the origination and subsequent transfer of a single permitted security arrangement does not require consent;

3.4 introduce a transitional provision that allows existing transactions that fall within a new exemption to proceed without consent, provided they have not already received consent or been given effect to;

4 **noted** that the Overseas Investment Amendment Regulations (No 2) 2020 give effect to the decisions referred to above;

[1] and [36]

5

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7

8 **authorised** the submission to the Executive Council of the Overseas Investment Amendment Regulations (No 2) 2020 [PCO 22925/10.0];

9 **noted** that a waiver of the 28-day rule is sought:

9.1 so that the Amendment Regulations can come into force quickly, to operationalise changes to the Overseas Investment Act 2005 introduced through the Overseas Investment (Urgent Measures) Amendment Act 2020;

9.2 on the grounds that the No 2 Regulations support the Overseas Investment (Urgent Measures) Amendment Act, which responded to an emergency.

10 **agreed** to a waiver of the 28-day rule so that the Amendment Regulations can come into force on 28 July 2020.

Charlotte Doyle  
Committee Secretary

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**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon Stuart Nash  
Hon Iain Lees-Galloway  
Hon Kris Faafoi  
Hon Tracey Martin  
Hon Aupito William Sio  
Hon Julie Anne Genter  
Hon Eugenie Sage  
Michael Wood MP (Senior Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG