

# The Treasury

## Overseas Investment Act Reform Information Release

October 2020

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- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment
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## Treasury Report: Approval to make the Overseas Investment (Transitional Matters) Amendment Regulations 2020

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<b>Date:</b>	9 June 2020	<b>Report No:</b>	T2020/1830
		<b>File Number:</b>	IM-5-3-8-9 (COVID Response Reforms)

### Action sought

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	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	<b>Note</b> the content of this report.	N/A
Associate Minister of Finance (Hon David Parker)	<b>Agree</b> to lodge the attached Cabinet paper (subject to Ministerial consultation and any feedback you provide following Ministerial consultation) for consideration by Cabinet on Monday 15 June.	11 June 2020

### Contact for telephone discussion (if required)

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Name	Position	Telephone	1st Contact
[35]	Analyst, International	[39]	N/A (mob)
Thomas Parry	Manager, International	[35]	✓

### Minister's Office actions (if required)

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**Return** the signed report to Treasury.

Note any feedback on the quality of the report

**Enclosure:** Yes: [iwl:dms=PORTIA&&lib=iManage&&num=4291023&&ver=2&&latest=1](http://iwl:dms=PORTIA&&lib=iManage&&num=4291023&&ver=2&&latest=1)  
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# Treasury Report: Approval to make the Overseas Investment (Transitional Matters) Amendment Regulations 2020

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## Purpose of Report

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1. This report seeks your agreement to lodge the attached Cabinet paper “Approval to make the Overseas Investment (Transitional Matters) Amendment Regulations 2020” for consideration by Cabinet on Monday 15 June – subject to any feedback you provide on the paper.
2. The paper seeks approval from Cabinet to clarify via regulations the effect of the transitional provisions in the Overseas Investment (Urgent Measures) Amendment Act 2020, and to submit a finalised version of the attached draft “Overseas Investment (Transitional Matters) Amendment Regulations 2020” (the Regulations) to the Executive Council for that purpose.

## Analysis

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3. Consistent with the recommendations in T2020/1746 which you have agreed to, we have developed a Cabinet paper for your review (**Annex 1**). This paper seeks:
  - a approval to make regulations to clarify the application of the transitional provisions (clause 15 of Schedule 1AA) in the Overseas Investment (Urgent Measures) Amendment Act 2020 (the Act), and
  - b authorisation to submit the Regulations to the Executive Council.
4. The Regulations clarify that the Act applies to transactions where the Overseas Investment Office (OIO) has received an application, but the transaction has not yet been entered into.
5. Due to the urgency of addressing this issue, your office will seek approval from the Prime Minister’s office for the paper to be considered by Cabinet directly – consistent with your decisions in T2020/1746. Accordingly, the paper combines the elements of a Cabinet policy paper and a paper seeking authorisation to submit regulations to the Executive Council.
6. The Cabinet paper also seeks agreement to waive the requirement that regulations must not come into force until at least 28 days after they have been notified in the New Zealand Gazette (Paragraph 7.96 of the Cabinet Manual). In these circumstances, a waiver is sought under paragraph 7.97 of the Cabinet Manual, on the basis that the Regulations seek to validate an irregularity in the Urgent Measures Act that, if unresolved, risks Parliament’s intended operation of that Act when it enters into force. Otherwise, the paper notes that in your view the Regulations comply with the relevant requirements and guidelines.
7. We have attached in **Annex 2** a draft version of the Regulations for your information. A final version will be lodged by Parliamentary Counsel Office on Thursday to accompany the Cabinet paper.

## Next Steps

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8. We will reflect feedback from you and Ministerial consultation in the final version of the Cabinet paper, which we recommend that you lodge on Thursday 11 June for consideration by Cabinet on Monday 15 June.
9. If Cabinet agrees to the recommendations in the attached paper, the Regulations will be referred to the Executive Council on the same day and following the Governor-General's signature, would come into force on 16 June 2020 (at the same time as the Act comes into force).
10. The attached paper notes that the Regulations will be published in the Government Gazette and on the OIO's website on 16 June 2020.
11. Given the limited number of investors likely to be affected by these changes, the OIO will alert affected applicants to these regulations (if made), rather than agencies engaging in a broader communications exercise as occurred to support the more material aspects of the Government's reforms.

## Recommended Action

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We recommend that you:

- a **agree** to lodge the attached Cabinet paper (subject to Ministerial consultation and any feedback you provide) and a finalised version of the attached draft regulations on Thursday 11 June for consideration by Cabinet on Monday 15 June.

*Agree/disagree.*

Thomas Parry  
**Manager International**

Hon David Parker  
**Associate Minister of Finance**

**Note:**

This Cabinet paper is online and can be found at:

<https://www.treasury.govt.nz/sites/default/files/2020-08/overseas-investment-amendment-regulations-cab-20-sub-0275-4330600.pdf>

**Note:**

The Overseas Investment (Transitional Matters) Amendment Regulations 2020 can be found at: <http://www.legislation.govt.nz/regulation/public/2020/0117/latest/whole.html>