

Overseas Investment (Exempt Investment from OECD Countries) Amendment Bill

Member's Bill

Explanatory note

General policy statement

It's important that New Zealand is an attractive destination for investment which will, in turn, support greater levels of productivity, jobs and higher incomes.

This Bill will exempt investors from countries within the OECD from the need to receive Overseas Investment Office approval to invest here, except in respect of investments in residential land. These investments would still be subject to the call-in regime where national security interests are at stake.

This provision would streamline the process for investors from OECD countries to bring capital into New Zealand.

Membership of the OECD is restricted to countries committed to preserving and advancing democracy and market capitalism. Many OECD nations are already our allies on national security issues. They are, therefore, the least risky sources of investment and, in many cases, have large amounts of money ready to be invested.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for this Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 identifies the Overseas Investment Act 2005 as the Act being amended by the Bill (the **principal Act**).

Clause 4 inserts new definitions of **OECD country** and **OECD person** into the principal Act.

Clause 5 amends section 82 of the principal Act (which relates to call-in transactions and overseas investments covered by the emergency notification regime) to clarify

that overseas investment transactions by OECD persons that are exempt from the consent requirement remain subject to the call-in regime.

Clause 6 amends Schedule 3 of the principal Act to exempt overseas investment transactions that would result in an overseas investment by an OECD person from the requirement to obtain consent under section 10 of the principal Act; unless the transaction relates to the acquisition of an interest in residential land.

Damien Smith

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Overseas Investment (Exempt Investment from OECD Countries) Amendment Act **2021**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Overseas Investment Act 2005 (the **principal Act**).

4 Section 6 amended (Interpretation)

In section 6(1), insert in the appropriate alphabetical order:

OECD country means a country that is a member of the Organisation for Economic Cooperation and Development under the Convention on the Organisation for Economic Cooperation and Development done at Paris on 14 December 1960 5

OECD person means—

- (a) an individual who is a citizen of, or ordinarily resident in, an OECD country; or
- (b) a body corporate that is incorporated in an OECD country; or 10
- (c) a partnership, unincorporated joint venture, or other unincorporated body of persons (other than a trust or unit trust) (**A**) if—
 - (i) more than 75% of A's partners or members are OECD persons; or
 - (ii) an OECD person or persons have a beneficial interest in or entitlement to more than 75% of A's profits or assets (including on A's winding up); or 15
 - (iii) an OECD person or persons have the right to exercise or control the exercise of more than 75% of the voting power at a meeting of A; or
- (d) a trust (**A**) if— 20
 - (i) more than 75% of A's governing body are OECD persons; or
 - (ii) an OECD person or persons have a beneficial interest in or entitlement to more than 75% of A's trust property; or
 - (iii) more than 75% of the persons having the right to amend or control the amendment of A's trust deed are OECD persons; or 25
 - (iv) more than 75% of the persons having the right to control the composition of A's governing body are OECD persons; or
- (e) a unit trust (**A**) if—
 - (i) the manager or trustee, or both, are OECD persons; or
 - (ii) an OECD person or persons have a beneficial interest in or entitlement to more than 75% of A's trust property 30

5 Section 82 amended (What are call-in transactions and overseas investments covered by emergency notification regime)

After section 82(2)(b), insert:

OECD transactions 35

- (c) a transaction that is exempt from the requirement to obtain consent under clause 8A of Schedule 3.

6 Schedule 3 amended

In Schedule 3, after clause 8, insert:

Exemptions in respect of investments by OECD persons that are not investments in residential land

8A Transactions by OECD persons

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(1) Subject to **subclause (2)**, a transaction does not require consent for the purposes of section 10 to the extent that it will result in an overseas investment by an OECD person.

(2) **Subclause (1)** does not apply to a transaction to the extent that it will result in the acquisition by an OECD person, or an associate of an OECD person, of an estate or interest in residential land.

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