



Overseas Investment (PACER Plus) Amendment Regulations 2024

Cindy Kiro, Governor-General

Order in Council

At Wellington this 15th day of April 2024

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 61A of the Overseas Investment Act 2005—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Finance made in accordance with section 61A(3) of that Act.

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Regulations

1 Title

These regulations are the Overseas Investment (PACER Plus) Amendment Regulations 2024.

2 Commencement

These regulations come into force on 1 May 2024.

3 Principal regulations

These regulations amend the Overseas Investment Regulations 2005.

4 Regulation 84 amended (Introduction to Part 5)

After regulation 84(3)(e), insert:

(ea) the Pacific Agreement on Closer Economic Relations Plus, done at Nuku'alofa on 14 June 2017 (**PACER Plus**):

5 Regulation 85 amended (Definitions)

(1) In regulation 85(1), definition of **type A enterprise**, after paragraph (e), insert:

(f) any of the following parties to PACER Plus:

- (i) Australia:
- (ii) Cook Islands:
- (iii) Kiribati:
- (iv) Niue:
- (v) Samoa:
- (vi) Solomon Islands:
- (vii) Tonga:
- (viii) Tuvalu:
- (ix) Vanuatu

(2) In regulation 85(1), definition of **type A individual**, after paragraph (f), insert:

(g) a natural person of any of the following parties to PACER Plus as defined by the definition of natural person of a Party in Article 2 of Chapter 1 of PACER Plus:

- (i) Australia:
- (ii) Cook Islands:
- (iii) Kiribati:
- (iv) Niue:
- (v) Samoa:
- (vi) Solomon Islands:

- (vii) Tonga:
 - (viii) Tuvalu:
 - (ix) Vanuatu
 - (3) In regulation 85(1), definition of **type A territory**, after paragraph (e), insert:
 - (f) the territory for any of the following parties to PACER Plus:
 - (i) Australia:
 - (ii) Cook Islands:
 - (iii) Kiribati:
 - (iv) Niue:
 - (v) Samoa:
 - (vi) Solomon Islands:
 - (vii) Tonga:
 - (viii) Tuvalu:
 - (ix) Vanuatu
 - (4) In regulation 85(1A), replace “and UK FTA, and EU FTA” with “UK FTA, EU FTA, and PACER Plus”.
- 6 Regulation 88 amended (Introduction to subpart 2 and interaction between regulations in Part 5)**
- After regulation 88(2)(e), insert:
- (ea) Article 2 of Chapter 7 and Article 3.2 of Chapter 9 of PACER Plus:
- 7 Schedule 1AA amended**
- In Schedule 1AA,—
- (a) insert the Part set out in the Schedule of these regulations as the last Part;
and
 - (b) make all necessary consequential amendments.

Schedule
New Part 12 inserted into Schedule 1AA

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Part 12
Provisions relating to Overseas Investment (PACER Plus)
Amendment Regulations 2024

27 Application

The amendments made by the Overseas Investment (PACER Plus) Amendment Regulations 2024 apply only to the acquisition of rights or interests in securities or of other property, or the establishment of any business, after the commencement of those regulations.

28 No refunds

No person is entitled to a refund of any fee or charge paid to the regulator for a matter under Schedule 2 on the ground that the amendments made by the Overseas Investment (PACER Plus) Amendment Regulations 2024 mean that the matter is no longer relevant (for example, that a consent that had been applied for is no longer required).

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations but is intended to indicate their general effect.

These regulations come into force on 1 May 2024.

They amend Part 5 of the Overseas Investment Regulations 2005, which provides for alternative monetary thresholds for overseas investments in significant business assets for the purpose of implementing New Zealand's obligations under specified international agreements. The thresholds apply for the purpose of determining whether overseas investments in business assets require consent under the Overseas Investment Act 2005 (the **Act**). The standard monetary threshold for investments in significant business assets is \$100 million (*see* section 13 of the **Act**).

The entry into force of the Free Trade Agreement between New Zealand and the United Kingdom of Great Britain and Northern Ireland done at London on 28 February 2022 and the Free Trade Agreement between New Zealand and the European Union done at Brussels on 9 July 2023 triggered "most-favoured-nation" obligations that New Zealand has under the Pacific Agreement on Closer Economic Relations Plus

done at Nuku'alofa on 14 June 2017 (**PACER Plus**). Those most-favoured-nation obligations require New Zealand to treat non-government investors from parties to PACER Plus in the same way as, or in a similar way to, the way it treats investors from parties to those agreements.

These regulations add the parties to PACER Plus to the group of New Zealand's trading partners for which an increased monetary threshold of \$200 million will apply to overseas investments in significant business assets by non-government investors (below which consent will not be required).

Regulatory impact statement

The Ministry of Foreign Affairs and Trade produced a national interest analysis (which incorporated all elements of a regulatory impact assessment) to help inform the decisions taken by the Government relating to the PACER Plus Agreement.

A copy of the national interest analysis can be found at <https://www.mfat.govt.nz/assets/Trade-agreements/PACER-Plus/PACER-Plus-National-Interest-Analysis.pdf>

Issued under the authority of the Legislation Act 2019.
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These regulations are administered by the Treasury.