

Information required for discretionary exemption application

This document sets out the information required to complete the online discretionary exemption application.

Apply for a discretionary exemption here: <https://oio.linz.govt.nz/apply-discretionary-exemptions>

Application detail

Provide the following details:

- Applicant name (full name of either the entity or name of individual(s) applying.
- Short description of the requested exemption
- Target entity (if any)
- Vendor/Lessor (if relevant)
- Vendor email (if relevant)
- Considerations (if any)
- Address in New Zealand for service
- Requested decision date
- If an Agreement for Sale and Purchase has been entered:
 - Date of Sale and Purchase Agreement
 - Due date of the Overseas Investment Act condition
- If not, why an Agreement for Sale and Purchase has not been entered into
- Consent holder contact details (contact details of the consent holder themselves)
- Application contact details (this is the person who will be contacted in relation to the submitted application)

Documents

Upload the following documents:

- A diagram to explain the transaction
- Passports of all key individual(s) in colour
- Transaction agreements without redaction (e.g. Agreement for Sale and Purchase)
- Record of title of land involved
- Structure diagram of the entity (pre & post transaction)
- Certificate(s) of incorporation
- Formation documents (e.g. trust deeds, constitutions)
- If unavailable online, latest financial accounts (audited where applicable) and annual reports
- Any other relevant documentation in support of your application

The exemption

Provide the following information about the exemption sought:

- Explanation of what the exemption will cover, i.e. whether the request covers a transaction, person, interest, right or assets or to be exempt from the definition of overseas person or associate or associated land. Note that discretionary exemption does not allow class exemptions
- Any previous consents the sensitive asset or Applicant and related entities have been the subject of
- The Applicant's existing interest in sensitive assets and a statement about their interest
- Why the transaction otherwise requires consent (where possible, reference the relevant sections of the Act).

The transaction

Provide the following information about the transaction relating to the exemption sought:

- Description of the target or assets being acquired
- Detail about the target entity and their business, if relevant to the exemption sought
- Details of the proposed transaction and relevant agreements and steps involved in the transaction.
Clearly identify all parties to the transaction including the entity/individuals acquiring the investment, target entity, and vendor, including associates who hold direct or indirect interest in the Applicant. Include details of any pre-conditions to completion other than OIO consent or exemption.

Criteria

Submit the following information about whether the exemption sought meets the criteria set out in [section 61E](#) of the Act and is for one of the purposes in [section 61B](#) of the Act:

- Explain the requested extent of the exemption. The extent must not be broader than reasonably necessary (e.g. covers a specific transaction only)
- Explain how the exemption being sought is necessary, appropriate, or desirable with regard to the matters referred to in [section 61B\(a\) to \(c\)](#)
- Explain how an exemption in this instance is consistent with the [purpose of the Act](#)
- Describe the extent to which effective ownership or control is changed by the overseas investment, or remains with persons who are not overseas persons, and the extent to which the sensitive asset is already held in overseas ownership or control
- Outline whether the acquisition is the result of the operation of other legislation or an event outside the overseas person's control
- Include the extent of time an overseas person is likely to have ownership or control of a right or interest, for what purpose, and the likely impact on the sensitive assets of that ownership or control
- Describe any other matters that are relevant in the circumstances

Ownership and control

Provide the following information about the Applicant's ownership and control:

- Information on ownership and control of the Applicant tracking back to the ultimate owners/controllers. Explain their role and the significance of any intermediary entities and other parties, including associates, who hold a direct or indirect interest in the Applicant. Where applicable, describe trust arrangements, all share classes on issue, and who owns them.
- Incorporation, shareholder and director information for the Applicant and persons who have a more than 25% beneficial or legal interest in the Applicant (or equivalent information if the Applicant is not a company).
- Beneficial ownership table: a percentage breakdown of individuals with greater than 5% interest (either alone or together with associates) in the Applicant. If it is not possible to identify individual beneficial owners and why it is not possible to identify the individual.
- Ownership by country table: a percentage breakdown of ultimate beneficial ownership of the applicant by country.
For listed companies, provide the most accurate information possible about the location of their shareholders and the source of that information.
- ROP/IWC table
 - Detailed information about key individual(s): Full legal name, non-English names, other names, role, date joined as Relevant Overseas Person (ROP) / Individuals with Control (IWC), passport number, nationality, residing country, and date of birth
 - Detailed information about ROP/IWC entities: Full legal name, non-English names, trading name, type of entity, jurisdiction, and unique identifier

Applicant's business activities

Provide the following information about the Applicant's business activities:

- The Applicant's business activities generally, and any current or past business operations in New Zealand. Address whether the Applicant is a new investor or has a track record in New Zealand.
- A summary of the Applicant's financial position (e.g. market capitalisation, gross revenue, net profit, net asset value) Include a link to the Applicant's website and annual report if available online.
If the investor is effectively an individual (or a few individuals), provide information about the business activities of the individuals.