

Information required for discretionary exemption application

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

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
- Statutory declaration verifying that the information provided in the application is true and correct
- 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

Applicant ownership and structure

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

Applicant's business activities:

- Information about the Applicant's business operations, past and present, including those in New Zealand. Address whether the applicant is a new investor or has a track record in NZ
- 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 Applicant is an individual (or a few individuals), provide a brief summary of their financial position

Applicant's ownership and control:

- Information about 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) that hold a direct or indirect interest in the applicant
 - Where applicable, describe trust arrangements, and all share classes on issue (and who owns them)
- Incorporation, shareholder and director information (or equivalent information if the applicant is not a company) for:
 - the applicant, and
 - persons who have a more than 25% beneficial or legal interest in the applicant

Ownership:

- Information about all beneficial owners – that is, all individuals with greater than 5% interest (either alone or together with associates) in the applicant. Note: If it's not possible to identify individual beneficial owners, entities may be included instead
- A breakdown of ultimate beneficial ownership of the applicant by country. Note that:
 - applicants should avoid grouping countries or listing ownership by continent
 - for listed companies, applicants should provide the most accurate information they can about the location of their shareholders, and be clear about the source of that information.
 - widely held shareholding can be recorded as the corresponding region - or the applicant can select 'Various regions' if this can't be determined by country