

Decision Date

11 November 2021

Duration of the Exemption

This Exemption comes into force on the Decision Date and expires at the close of 11 November 2026, unless varied or revoked earlier.

Interpretation

1. In this notice, unless the context otherwise requires—
 - (a) **Act** means the Overseas Investment Act 2005
 - (b) **exemptions** means the exemptions in paragraphs 4-10 subject to the conditions in paragraphs 11-16
 - (c) **OIO** means the Overseas Investment Office
 - (d) **ownership or control interest** means:
 - (i) a beneficial entitlement to, or a beneficial interest in, a person's securities; or
 - (ii) the power to control the composition of any part of the governing body of a person; or
 - (iii) the right to exercise or control the exercise voting power at a meeting of a person
 - (e) **parent of Tricor NZ** means any person that from time to time has, directly or indirectly, a 25% or more ownership or control interest in Tricor NZ
 - (f) **Regulations** means the Overseas Investment Regulations 2005
 - (g) **Tricor NZ** means Tricor New Zealand Holdings Limited (New Zealand company number 8235047)
 - (h) **Tricor NZ Group** means:
 - (i) Tricor NZ; and
 - (ii) any person in which Tricor NZ from time to time has, directly or indirectly, a majority ownership or control interest, other than in a trustee capacity
 - (i) **Trust** means any arrangement in which any member of the Tricor NZ Group is acting in a trustee capacity
 - (j) **trustee capacity** means a capacity in which a company is acting in the ordinary course of business as:
 - (i) a trustee or supervisor of a unit trust, managed investment scheme, group investment fund, charitable trust or a trust (including a security trust) for specified or discretionary beneficiaries; or
 - (ii) a custodian trustee; or
 - (iii) a trustee, agent, attorney, or nominee for any person, estate of a deceased person, or purpose; or
 - (iv) a trustee or statutory supervisor (each as defined in the Securities Trustees and Statutory Supervisors Act 2011) or any other supervisory trustee capacity; or
 - (v) an executor or administrator of an estate of a deceased person; or

- (vi) a supervisor or custodian, as defined in the Financial markets Conduct Act 2013
2. Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this Exemption has the same meaning as in the Act or the Regulations (as the case may be).
 3. Examples used in this notice have the following status:
 - (a) an example is only illustrative of an exemption and does not limit the exemption; and
 - (b) if an example and the exemption provision to which it relates are inconsistent, the exemption provision prevails.

Exemptions

Initial exemption

4. Trivium Madison Pacific Investment Limited and Tricor NZ are exempt from the requirement for consent under s12(b) for the acquisition of rights or interests in up to 100% of the shares of NZGT Holding Company Limited (**NZGT Holdco**).
5. The acquisition of the rights or interests in the shares described in paragraph 4 must take place through one or more transactions within twelve months of the date of the Exemption.

Ongoing exemption

6. Each member of the Tricor NZ Group and each parent of Tricor NZ is exempt from the definition of *overseas person* for the purposes of determining whether:
 - (a) any member of the Tricor NZ Group requires consent under the Act when acting in a trustee capacity;
 - (b) any member of the Tricor NZ Group is subject to the call-in regime set out at sections 82 to 87 of the Act when acting in a trustee capacity;
 - (c) any other person (**A**) is or becomes an overseas person as a result of a member of the Tricor NZ Group holding or acquiring securities in any person in a trustee capacity;
 - (d) any trust (**T**) of which a member of the Tricor NZ Group is a trustee is an overseas person; and
 - (e) any trust (**T**) of which a member of the Tricor NZ Group is a trustee (and T's settlor and beneficiary) may rely on the corporate dealing exemption set out at regulation 37 of the Overseas Investment Regulations 2005;in each case, in the ordinary course of business of such member of the Tricor NZ Group or such parent of Tricor NZ.
7. Each member of the Tricor NZ Group is exempt from the definition of *associate* to the extent that it is an associate of another member of the Tricor NZ Group or a parent of Tricor NZ.
8. The exemption in paragraphs 6 and 7 will not apply if a member of the Tricor NZ Group or a person which directly or indirectly has a 25% or more ownership or control interest in Tricor NZ is a beneficiary of the relevant Trust.
9. The exemptions in paragraph 6 will not apply if the relevant member of the Tricor NZ Group is an overseas person for a reason other than the fact that Tricor NZ and / or any parent of Tricor NZ is an overseas person.
10. The exemptions in paragraph 6 will not apply if a parent of Tricor NZ has a 25% or more ownership or control interest in the relevant member of the Tricor NZ Group other than indirectly through its ownership or control interest in Tricor NZ.

Conditions of the exemptions

Initial exemption

11. The Exemption Holder must notify the OIO in writing as soon as practicable, and no later than twelve months from the date of the Exemption, whether the acquisition of the shares in paragraph 4 took place. If the acquisition did take place, the notice must include:

- (a) the date or dates upon which settlement of the transaction or transactions occurred;
 - (b) final consideration paid (plus GST, if any);
 - (c) the structure by which the acquisition was made, and who acquired the shares;
 - (d) where applicable, copies of transfer documents; and
 - (e) (any other information that would aid the OIO in its function to monitor the conditions of the Exemption.
12. If requested in writing by the OIO, the Exemption Holder must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:
- (a) the representations and plans made or submitted in support of the application for the Exemption; or
 - (b) the conditions of the Exemption.

Ongoing exemption

13. If requested in writing by the OIO, Tricor NZ must within 20 working days (or such other timeframe as specified by the OIO) provide a list of Trusts, assets held under any particular Trust, or transactions undertaken by any particular Trust, in respect of which any member of the Tricor NZ Group has been appointed to act in a trustee capacity which, but for the exemptions, would have required consent under the Act.
14. If requested in writing by the OIO, Tricor NZ must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:
- (a) the representations made or submitted in support of the application for the exemptions; or
 - (b) the conditions of the exemptions.
15. Each member of the Tricor NZ Group agrees that it will not act or omit to act with a purpose or an intention of adversely affecting New Zealand's national security or public order.

Amendment or revocation of the exemptions

16. The exemptions and conditions of the exemptions may at any time be amended or revoked by the Overseas Investment Office.

Sanctions

17. The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with conditions of exemption and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

Examples

Example 1

Tricor NZ owns a trustee company (T). A New Zealander (N) wishes to acquire Company A through a trust, with T as trustee. A owns sensitive land.

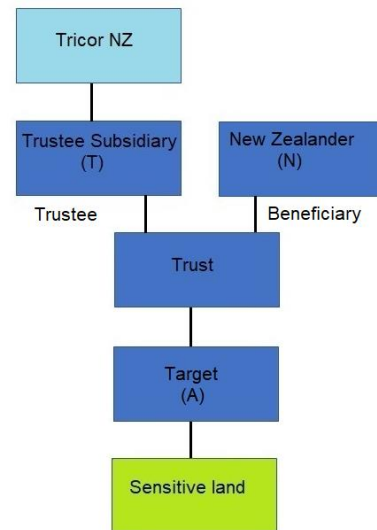
Result:

The purchase of A by the trust will not require consent.

T will not require consent for the trust's acquisition of A, as paragraph 6(a) exempts T from the definition of overseas person when acting in a trustee capacity. Paragraph 7 exempts T from the definition of associate in relation to Tricor NZ and its 25% or more parents.

N is neither an overseas person nor an associate of an overseas person and will not require consent to acquire a beneficial interest in A.

A will not become an overseas person as paragraph 6(c) exempts Tricor NZ from the definition of overseas person when determining whether A is an overseas person.



Example 2

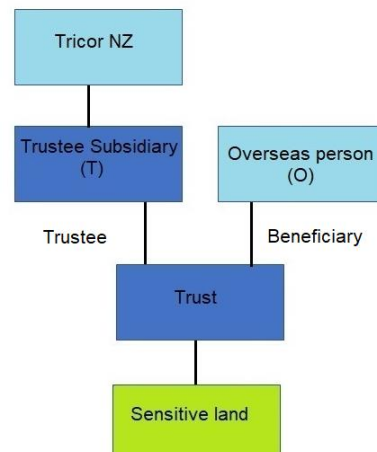
Tricor NZ owns a trustee company (T). An overseas person (O) wishes to acquire sensitive land through a trust, with T as trustee.

Result:

The purchase of sensitive land by the trust will require consent.

T will require consent as it is an associate of an overseas person (O) and the relationship is not overcome by any of the exemptions in paragraph 6.

The trust will require consent as it is an overseas person as O has a beneficial entitlement to more than 25% of the trust property. The exemption in paragraph 6(d) is insufficient, as the trust would be an overseas person even if Tricor NZ was not an overseas person.



Example 3

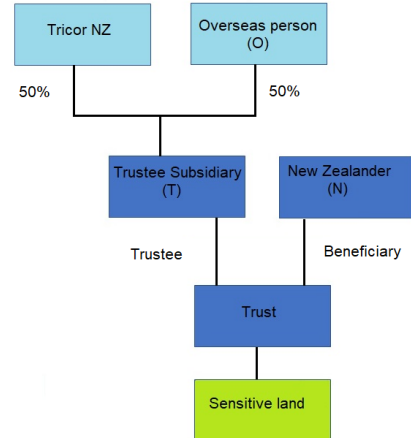
Tricor NZ owns 50% of a trustee company (T). The other 50% is owned by an overseas person (O). A New Zealander (N) wishes to acquire sensitive land through a trust, with T as trustee.

Result:

The purchase of sensitive land by the trust will require consent.

T will require consent to acquire a legal interest in the land. T is an overseas person as O has a 25% or more of its shares. The exemption in paragraph 6(a) is insufficient as T would be an overseas person even if Tricor NZ was not an overseas person.

The trust will require consent to acquire the land. The trust is an overseas person as its trustee, T, is an overseas person. The exemption in paragraph 6(d) is insufficient, as the trust would be an overseas person even if Tricor NZ was not an overseas person.



Example 4

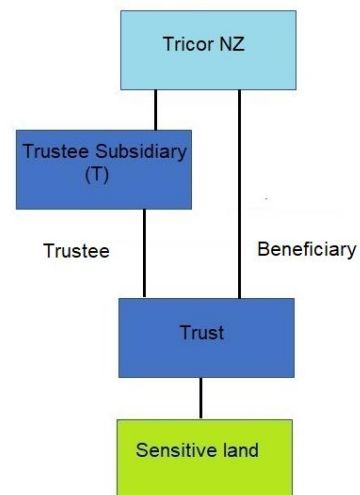
Tricor NZ wishes to acquire sensitive land. Tricor NZ structures the acquisition through a trust, with a member of Tricor NZ Group as trustee, and Tricor NZ as a beneficiary.

Result:

The purchase of the sensitive land will require consent.

T will require consent to acquire a legal interest in the land. T is an overseas person as Tricor NZ has a 25% or more of its shares. The exemption in paragraph 6(a) does not apply as Tricor NZ is a beneficiary of the trust, see paragraph 8.

The trust will require consent to acquire the land. The trust is an overseas person as its trustee, T, is an overseas person. The exemption in paragraph 6(d) does not apply as Tricor NZ is a beneficiary of the trust, see paragraph 8.



Explanatory note

1. Two different but related exemptions have been granted in respect of the acquisition and continued operation of the trustee business of NZGT Holdco. These exemptions apply only to the extent that NZGT Holdco and its subsidiaries act as trustees.

Initial Exemption

2. This exempts Tricor NZ from the requirement for consent under section 12(b) (sensitive land) in respect of its purchase of the shares in NZGT Holdco (which owns the Guardian professional trustee service business). NZGT Holdco indirectly has interests in sensitive land in a trustee capacity.
3. Tricor NZ has separately sought consent under section 13(1)(a) (significant business assets) to acquire the shares in NZGT Holdco.
4. The exemption has been granted because applying for consent under section 12(b) would have been impractical, inefficient, unduly costly, or unduly burdensome, taking into account the sensitivity of the sensitive assets and the nature of the overseas investment transaction.
5. Tricor NZ would need to identify all sensitive land held by NZGT Holdco in a trustee capacity in order to obtain consent under section 12(b) (sensitive land). This is procedurally onerous and not workable in circumstances where Tricor NZ will not hold or control a beneficial interest in the relevant sensitive land.

Ongoing Exemption

6. This exempts members of the Tricor NZ group from the definition of overseas person in certain circumstances.
7. The exemption:
 - (a) allows Tricor NZ and its subsidiaries to acquire sensitive New Zealand assets in a trustee capacity without first obtaining consent under the Act, and
 - (b) relieves Tricor NZ and its subsidiaries from the obligation to notify the Overseas Investment Office of certain transactions involving strategically important businesses.
8. The exemption has been granted because applying for consent and notifying transactions would have been impractical, inefficient, unduly costly, or unduly burdensome, taking into account the sensitivity of the sensitive assets and the nature of the overseas investment transaction.
9. Tricor NZ's role as a trustee, supervisor or custodian normally involves a third party (such as a fund manager) making decisions about the assets being acquired by the relevant trust or investment scheme. The trustee is not customarily consulted or otherwise involved in these decisions. The time and cost required for a trustee to obtain consent or notify a transaction would preclude the use of an overseas owned trustee.
10. The involvement of Tricor NZ and its subsidiaries in a trustee capacity protects the interests of the (mostly) New Zealand beneficial owners of the underlying assets. Tricor NZ and its subsidiaries will obtain no beneficial interest in or entitlement to the relevant property.
11. Investments in sensitive New Zealand assets made by a member of the Tricor NZ Group in a trustee capacity will only require consent if the relevant Trust is an overseas person for another reason, and a statutory exemption does not apply.
12. The terms of the exemption mean that:
 - (a) acquisitions by Tricor NZ and its subsidiaries on behalf of overseas persons, and
 - (b) acquisitions by Tricor NZ or its subsidiaries other than a trustee capacitywill still be subject to the applicable consent and notification requirements.