**Notice of Decision**

**Case: 201900495**

* + - 1. Decision Date

26 February 2020

* + - 1. Duration of this Exemption

This Exemption comes into force on the Decision Date and expires on 26 February 2021, unless amended or revoked under section 61F(4) of the Act.

* + - 1. Exemption from the requirement for consent under the Act

1. The Exemption Holder is exempt from the requirement under the Act to obtain consent to acquire up to 40% of the rights or interests in the shares of Aquila Capital while this Exemption is in force and the following are true:
   1. the interest held by CTG over the New Zealand Assets is a legal ownership interest only;
   2. the control interest held by Aquila MLP over the New Zealand Assets is held in a management capacity only; and
   3. the Exemption Holder has a beneficial ownership interest in the New Zealand Assets that does not exceed 1%.
2. Paragraphs 3(1)(a) and 3(1)(b) do not apply to the extent that the Exemption Holder acquires an interest of any kind in the New Zealand Assets in compliance with the requirements of the Act.
   * + 1. Interpretation
3. In this notice, unless the context otherwise requires—

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| **Act** | means the Overseas Investment Act 2005. |
| **Aquila Capital** | means Aquila Capital Holding GmbH. |
| **Aquila Funds** | means the subsidiaries of Aquila Capital that collectively hold interests in New Zealand Assets. |
| **Aquila MLP** | means Aquila Capital Real Assets Management GmbH, the managing limited partner of the Aquila Funds. |
| **CTG** | means Caveras Treuhand GmbH, the trustee entity that holds over 99.9% of the shares in the Aquila Funds on behalf of the Underlying Investors. |
| **Decision Date** | means the date specified in paragraph 1. |
| **Exemption** | means the exemption in paragraph 3(1). |
| **Exemption Holder** | means Daiwa Energy & Infrastructure Co Ltd. |
| **OIO** | means the Overseas Investment Office. |
| **New Zealand Assets** | means the significant business assets (totaling approximately $187,926,986) and the sensitive land interests (being 8 properties totaling approximately 3,744.16 hectares of land) held by the Aquila Funds. |
| **Regulations** | means the Overseas Investment Regulations 2005. |
| **Underlying Investors** | means the retail and institutional investors who are the beneficial owners of the shares in the Aquila Funds held by CTG on trust. |

1. 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).
   * + 1. Reporting under this Exemption
2. 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 transaction in paragraph 3(1) took place. If the transaction did take place, the notice must include:
3. the date upon which settlement of the relevant transaction occurred;
4. final consideration paid (plus GST, if any);
5. the structure by which the acquisition was made, and who acquired the property;
6. where applicable, copies of transfer documents and settlement statements; and
7. any other information that would aid the OIO in its function to monitor the conditions of the Exemption.
8. 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:
9. the representations and plans made or submitted in support of the application for the Exemption; or
10. the conditions of the Exemption.
    * + 1. Reasons for Exemption
11. The Exemption Holder intends to acquire a 40% interest in Aquila Capital, an alternative asset management company, and has applied for an exemption from the requirement for consent for this acquisition.
12. The Exemption Holder is a Japanese registered company that invests in renewable energy, resources and infrastructure projects The Exemption Holder is wholly owned by Daiwa Securities Group Inc, a financial services company listed on the Tokyo Stock Exchange.
13. Aquila Capital indirectly owns four entities which have control and ownership interests in the Aquila Funds, including ownership in a trustee capacity. The Aquila Funds hold sensitive land and significant business assets in New Zealand.
14. The acquisition will result in a minor change in the beneficial ownership of the New Zealand Assets. The control over the New Zealand Assets will remain the same. The control and legal ownership interests in the New Zealand Assets that are held by the subsidiaries of Aquila Capital are held as trustee and manager of the Aquila Funds. These subsidiaries have fiduciary duties and other obligations to the Underlying Investors in the Aquila Funds that require them to act in the best interests of those funds.
15. The Exemption meets the criteria in section 61E of the Act and is consistent with the purpose of the Act because:
16. There will be no change in the control of the sensitive assets and only a minor change in beneficial ownership.
17. Aquila Capital and its subsidiaries, investment vehicles and relevant funds previously obtained consent to acquire the interests in sensitive assets and are subject to conditions of those consents;
18. The Exemption Holder cannot change the investment plan for the assets for their own interests;
19. The Exemption is not broader than necessary as it only applies to the acquisition of a trustee or management interest in the assets; and
20. The Exemption is analogous to the exemption for a change in trustee as it relates to the change of ownership of an overseas owned trustee.
    * + 1. Amendment or revocation of the Exemption

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

* + - 1. Sanctions

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.