

1 Decision Date

2 June 2023

2 Duration of the Exemption

This Exemption comes into force on the Decision Date and expires at the close of five years from the Decision Date, unless varied or revoked earlier.

3 Interpretation

(1) In this notice, unless the context otherwise requires—

- (a) **Act** means the Overseas Investment Act 2005
- (b) **FMC Act** means the Financial Markets Conduct Act 2013
- (c) **Fund** means a fund as defined in:
 - (i) the Mercer Investment Funds Trust Deed amended and restated as at 6 March 2023 (managed investment scheme SCH10307), or
 - (ii) the Mercer Wholesale Funds Trust Deed amended and restated as at 6 March 2023,

each as amended, supplemented or restated from time to time.

- (d) **Regulations** means the Overseas Investment Regulations 2005
 - (e) **OIO** means the Overseas Investment Office
 - (f) **Manager** means Mercer (N.Z.) Limited (New Zealand company number 24600).
 - (g) **Qualifying transaction** means a Fund acquiring units in another Fund
 - (h) **exemption** means the exemption in paragraph 4(1)-4(3) subject to the conditions in paragraphs 5(1)-5(6)
- (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).

4 Exemption

- (1) Qualifying transactions are exempt from the requirement for consent in section 10(1) of the Act.
- (2) The exemption in subparagraph (1) will not apply if the Manager or a person which directly or indirectly has a 25% or more ownership or control interest in the Manager is a beneficiary of the acquiring Fund.
- (3) The exemption in subparagraph (1) will not apply to a Qualifying transaction if the Fund acquiring units in the Qualifying transaction is an Overseas person for a reason other than:
 - (a) the Manager being an Overseas person; or
 - (b) an Overseas person or persons having a beneficial interest or an entitlement to more than 25% of the Fund's trust property where that beneficial interest or entitlement was acquired in a transaction to which regulation 43 of the Regulations applied.

5 Conditions of the exemption

- (1) The Manager may not act as a trustee for any trust in any Fund except to the extent required by section 143(3) of the FMC Act.
- (2) If requested in writing by the OIO, the Manager must within 20 working days (or such other timeframe as specified by the OIO) provide a list of funds, assets held under any particular fund, or transactions undertaken by any Fund which, but for the exemptions, would have required consent under the Act.

- (3) If requested in writing by the OIO, the Manager 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 exemption; or
 - (b) the conditions of the exemption.
- (4) The Manager will not act or omit to act with a purpose or an intention of adversely affecting New Zealand's national security or public order.
- (5) The Manager must be the manager of all of the Funds.
- (6) The Manager must hold and continue to hold a market services licence under the FMC Act for the market service of acting as a manager of a registered scheme.

6 Amendment or revocation of the exemptions

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

7 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.

8 Explanatory note

An exemption has been granted in respect of the continued operation of the funds management business of the Manager.

The exemption allows funds created under the Mercer Investment Funds Trust Deed or the Mercer Wholesale Funds Trust Deed (as amended, supplemented or restated from time to time) to acquire units in one another.

The funds fall within the scope of the Act solely because the Manager is an overseas person.

The exemption has been granted because applying for consent would be impractical, inefficient, unduly costly, or unduly burdensome, taking into account the sensitivity of the sensitive assets and the nature of the overseas investment transaction.

It is appropriate to grant the exemption because:

- (a) the exempt transactions will not change the control of the underlying assets (as the Manager manages all of the funds), and
- (b) the funds that have the benefit of the exemption will remain majority New Zealand owned.

The exemption is not broader than necessary as:

- (a) it is time limited, and
- (b) the exemption will not apply:
 - (i) if certain Manager related entities are beneficiaries of the acquiring fund, or
 - (ii) to a fund if it is an overseas person for a reason other than the fact that the Manager is an Overseas person (for example, if other overseas persons acquire more than 25% of the units in a fund).

The exemption does not affect the obligations of a fund under the national security and public order risks management regime in part 3 of the Act.