

1 Decision Date

17 May 2019

2 Duration of the Exemption

This Exemption comes into force on the Decision Date, and expires 12 months from the date of Exemption, unless amended or revoked under section 61F(4) of the Act.

3 Interpretation

In this notice, unless the context otherwise requires—

Act means the Overseas Investment Act 2005

ANZ Terminals Topco means ANZ Terminals Pty Ltd, a company incorporated in Australia

Exemption means the exemption in paragraph 4

Exemption Holder means Mitsubishi UFJ Trust and Banking Corporation

First Gas Group Topcos means First Gas Topco Limited and Gas Services NZ Limited, both companies incorporated in New Zealand

Land Interests mean:

- (a) a freehold interest in approximately 0.6164 hectares at Pirongia Road, Pirongia, South Auckland, and contained in Record of Title SA60C/877;
- (b) a freehold interest in approximately 0.5635 hectares at Derby Road South, Stratford, Taranaki, and contained in Record of Title TNG3/420;
- (c) a leasehold interest in approximately 0.0802 hectares at 87 Putiki Drive, Whanganui, and contained in Record of Title WN30C/670;
- (d) a leasehold interest in approximately 5.4848 hectares at 83 Woodbank Road, Hanmer Springs, and contained in Record of Title CB44D/494;
- (e) a freehold interest in approximately 0.3516 hectares at Howards Drive, Lake Hayes Estate, Otago, and contained in Record of Title 323109;
- (f) a leasehold interest in approximately 3.8805 hectares at 254 Fryatt Street Dunedin, and contained in Record of Title 701523 (the underlying freehold land is contained in Record of Title 519277); and
- (g) freehold interests in approximately 1.0061 hectares at 212A Gracefield Road, Lower Hutt, and contained in Records of Title WN5C/323 and WN14A/1308

NZ Assets means the Target Companies':

- (a) significant business assets; and
- (b) interests in sensitive land (the "**Land Interests**") due to their ownership and/or control interests in First Gas Group Topcos and/or ANZ Terminals Topco

OIO means the Overseas Investment Office

Regulations means the Overseas Investment Regulations 2005

Target Companies means Colonial First State Infrastructure Holdings Limited and Colonial First State Managed Infrastructure Limited

Transaction means the acquisition by the Exemption Holder of 100% of the rights or interests in the shares in the Target Companies

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 from the requirement for consent provisions of the Act

- (1) The Exemption Holder's acquisition of 100% of the rights or interests in the shares in the Target Companies is exempt from the requirement under the Act for consent.
- (2) The acquisition of the rights or interests in the shares described in paragraph 4(1) must take place through one or more transactions within 12 months of the date of the Exemption.

5 Conditions of the Exemption

The Exemption Holder must notify the OIO in writing as soon as practicable, and no later than 12 months from the date of the Exemption, whether the acquisition of the rights or interests in the shares in the Target Companies described in paragraph 4(1) took place. If the acquisition did take place, the notice must include:

- (a) the date or dates upon which settlement of the Transaction occurred;
- (b) final consideration paid under the Transaction (plus GST, if any);
- (c) the structure by which the acquisition was made, and who acquired the rights or interests in the shares in the Target Companies;
- (d) where applicable, copies of transfer documents and settlement statements; and
- (e) any other information that would aid the OIO in its function to monitor the conditions of the Exemption.

6 Additional condition placing restraints on Target Companies

- (1) The Exemption Holder must ensure that, to the extent that the Target Companies have ownership and/or control interests in the NZ Assets, they have those interests in the following capacities only:
 - (a) in relation to Colonial First State Managed Infrastructure Limited, in a trustee and/or management capacity; and
 - (b) in relation to Colonial First State Infrastructure Holdings Limited, in a management capacity or as the holder of an ownership or control interest in a party acting in a management capacity in relation to the NZ Assets.
- (2) The Exemption does not apply if the Exemption Holder acquires a beneficial interest in, or a beneficial entitlement to, the NZ Assets.
- (3) Paragraphs 6(1) and 6(2) do not apply to the extent that the Target Companies or the Exemption Holder acquire an interest of any kind in the NZ Assets in compliance with the requirements of the Act.

7 Written report on request

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:

- (1) the representations and plans made or submitted in support of the application for the Exemption; or
- (2) the conditions of the Exemption.

8 Amendment or revocation of the Exemption

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

9 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 OIO. The OIO has an obligation to investigate and act upon alleged and suspected breaches of the Act.

10 Reasons for Exemption

The Exemption Holder intends to acquire the global asset management business of the Commonwealth Bank of Australia known as "Colonial First State Global Asset Management," and has applied for an exemption from the requirement for consent for this Transaction.

The Exemption Holder is the trust banking arm, and a wholly owned subsidiary of Japanese company Mitsubishi UFJ Financial Group, Inc.. It is part of a very large, diversified financial group.

The Target Companies collectively hold legal title to 24.34% of First Gas Topco Limited's shares and 29.8% of Gas Services NZ Limited shares as trustee for the investors in Australian unit trusts and 22.9% of the shares in ANZ Terminals Topco as trustee for investors. The Target Companies also collectively control 84.02% of the shares in the First Gas Group Topcos as managers or owners of managers of certain Colonial First State Global Asset Management funds. First Gas Topco Limited, Gas Services NZ Limited, and ANZ Terminals Topco have interests in sensitive land and significant business assets in New Zealand.

The acquisition will only result in an indirect transfer of ultimate legal and control interests in the sensitive New Zealand assets as the Target Companies have an interest in the assets as trustees or managers (or owners of managers) of certain funds, and their fiduciary duties and other obligations require them to act in the best interests of those funds.

The Exemption meets the criteria in section 61E of the Act and is consistent with the purpose of the Act because:

- The Target Companies do not have an interest in the sensitive assets other than in their roles as trustees and/or managers (or owners of managers) of certain funds within the global asset management business;
- The Target Companies, investment vehicles and relevant funds previously obtained consent to acquire the interests in sensitive assets and are subject to conditions of those consents;

- The Target Companies or relevant subsidiaries have fiduciary duties and other obligations to act in the best interests of the investors for whom they manage the assets and/or hold the assets on trust;
- The Exemption Holder cannot change the investment plan for the assets for their own interests;
- The Exemption is not broader than necessary as it only applies to the acquisition of a trustee or management interest in the assets;
- 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; and
- There will be no effective change in beneficial ownership or control of the sensitive assets.

