

Decision Date

28 September 2021

Duration of the Exemption

This Exemption comes into force on the decision date and expires on 30 June 2031.

Interpretation

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

Act means the Overseas Investment Act 2005.

Craigmore Land SPV means a New Zealand entity:

- (a) that has an interest in sensitive land that was the subject of an OIO Consented Transaction; and
- (b) that was at least 75% owned by an Exemption Holder at the time of the OIO Consented Transaction; and
- (c) in which an Exemption Holder has, since the date of the OIO Consented Transaction, continuously held an ownership interest of at least 25%; and
- (d) in which any shares not owned by the Exemption Holder are owned by an Equity Manager

Equity Manager means:

- (a) A current or former employee or contractor or management entity engaged by an Exemption Holder or Craigmore Sustainables Group LP (or one or more of their subsidiaries or related entities) to perform management services in New Zealand in respect of any interest in land held by the Exemption Holder (or one or more of its subsidiaries); or
- (b) An associate of a person described in paragraph (a)

Equity Manager Securities means securities in a Craigmore Land SPV held by an Equity Manager.

Exemption means the exemption in paragraph 3 of this Notice of Decision.

Exemption Event means the settlement of an acquisition by an Exemption Holder of Equity Manager Securities.

Exemption Holder means a legal entity that is part of the Craigmore Sustainables group of investment vehicles and in respect of which the investment manager and/or general partner is an entity wholly owned by Craigmore Sustainables Group Limited Partnership.

OIO means the Overseas Investment Office.

OIO Consented Transaction means a transaction in respect of which either an Exemption Holder or a Craigmore Land SPV (as a subsidiary of the Exemption Holder) either:

- (a) was granted OIO consent to acquire an interest in sensitive land, where the conditions of consent do not expressly disapply this exemption; or
- (b) acquired an interest in sensitive land in reliance on the exemption in Regulation 37 (Exemptions for corporate dealing).

Regulations means the Overseas Investment Regulations 2005.

- (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).

Exemption from the requirement for consent provisions of the Act

- (3) Each Exemption Holder is exempt from the requirement for consent to acquire Equity Manager Securities.

Conditions of the Exemption

- (4) The Exemption Holder must report to the OIO in writing annually for the duration of the exemption. The notice must include:
- (a) the date upon which each Exemption Event occurred;
 - (b) final consideration paid (plus GST, if any);
 - (c) the structure by which the acquisition was made, and who acquired the property;
 - (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.
- (5) The first report is due by 31 December 2022 for the year ended 30 June 2022. The last report is due by 31 December 2031.
- (6) 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 made or submitted in support of the application for the Exemption; or
 - (b) the conditions of the Exemption.

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 pursuant to section 61F(4) of the Act.

Sanctions

The Act provides for civil and criminal sanctions and administrative penalties 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.

Reasons for Exemption

This exemption is granted under section 61D of the Act by the delegated decision-maker. It provides an exemption from the requirement to obtain consent for the Exemption Holders to acquire securities in specified New Zealand entities from defined persons.

The exemption replaces similar provisions in many of the Exemption Holder's existing consents.

The exemption falls within the purpose in section 61B(a). The exemption provides flexibility where compliance with the Act is impractical, inefficient, unduly costly, or unduly burdensome, taking into account the sensitivity of the sensitive assets and the nature of the overseas investment transaction.

The exemption also falls within the purpose in section 61B(c)(iii). The exemption provides flexibility for minor increases in ultimate ownership and control by overseas persons if consent has already been granted for those overseas persons to own or control sensitive assets.

The Exemption Holders operates a share equity scheme whereby farm managers are offered equity in the entity responsible for the land that they manage (**SPV**). This arrangement facilitates the Exemption Holders' business model of helping support good New Zealand farm managers into farm ownership, by either:

- (a) realising or leveraging off their capital interest in a SPV to acquire their own farm property; or
- (b) ultimately acquiring 100% of the SPV and the underlying farmland asset by gradual acquisition of shares from the relevant Exemption Holder.

However, the flexibility to reacquire equity is necessary in order for the share equity scheme to work efficiently. Reacquiring securities may be necessary if the Equity Manager wishes to sell, or if the Equity Manager is to no longer manage the relevant land.

Consent may be difficult to obtain for the interests sought to be acquired (due to the sensitivity of farmland), and would be inefficient, unduly costly and unduly burdensome, noting that the Exemption Holders are reacquiring securities in an SPV which they held at the time of consent, or which they had consent to acquire under the consent)). Not granting the exemption would impede the ability of the Exemption Holders to offer the share equity scheme to its farm managers and limit the level of equity that farm managers would be able to acquire in SPVs. The exemption is no broader than is reasonably necessary to address those circumstances. The exemption applies to a specific class of transactions and a specific class of entities only, and only in defined circumstances. The transaction will not result in any new overseas person obtaining an interest in the property, as all Exemption Holders will have already received OIO consent in relation to the relevant sensitive land. The exemption is for a limited period of time only though the power exists to extend the exemption if appropriate.

If the share equity scheme is successful, the Exemption will result in a net reduction of overseas ownership in productive New Zealand farmland, and provide a pathway to farm ownership for the farm managers involved.