

Our Ref 203300350

9 May 2023

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BY EMAIL: [REDACTED]

Tēna koe [REDACTED],

Response to your official information request

Thank you for your official information request received on 1 May 2023 in relation to application 202200350 made by Fisher Funds Management Limited (**FFML**).

You requested the following documentation:

"a copy of information that you have already released in an OIA to Business Desk regarding the overseas investment decision on the acquisition of Kiwi Wealth Management by Fisher Funds including any submissions on (including those objecting to) the take-over."

Documents in scope

We have identified the following documents as being in scope for your request:

#	Document	Released/Withheld
1	Kiwi Group Holdings Limited (KGHL) structure chart	Released
2	KGHL certificate of incorporation	Released
3	Vendor information form	Released
4	True and correct statutory declaration from FFML	Released
5	Investor test statutory declaration from Greg Wallace	Released
6	Investor test statutory declaration	Released
7	Appendix 3 Kiwi Wealth Group structure	Released

8	Appendix 6 Toi Foundation registration details and trust deed	Released
9	Appendix 7 certificate of incorporation for FFML	Released
10	Appendix 8 FFML Annual Report 2022	Released
11	Certificate of incorporation FFML HoldCo Limited	Released
12	Certificate of incorporation FFML TopCo Limited	Released
13	Fisher Funds National Interest Assessment Report	Partially released
14	Fisher Funds Assessment Report	Partially released
15	Application form	Partially released
16	Applicant's structure diagram	Partially released
17	Updated version of Applicant's structure diagram	Partially released
18	Third party submission	Partially released
19	Response to third party submission	Partially released
20	Financial Markets MBIE submission	Partially released
21	FMA submission	Partially released
22	DPMC comment	Partially released
23	Appendix 4 – Individuals with control Passports	Fully withheld
24	Appendix 5 – Individuals with control CVs	Fully withheld
25	Application signature form	Fully withheld
26	Greg Wallace – colour passport	Fully withheld
27	Greg Wallace – Individual with control information and CV	Fully withheld
28	Appendix 1 – Agreement for Sale and Purchase of Shares in Kwi Wealth Management Limited between KGHL and FFML	Fully withheld
29	Appendix 9 – FFML Shareholders' Agreement	Fully withheld
30	Appendix 10 – FFML's Financial Delegations and Authorities Policy	Fully withheld
31	Appendix 11 – Details of non-New Zealand government investors	Fully withheld
32	Appendix 12 – Partnership Agreement between Kiwibank Limited and FFML	Fully withheld
33	Appendix 13 – Transitional Services Agreement between Kiwibank Limited and FFML	Fully withheld

34	FFML Privacy policy and privacy breach and response plan	Fully withheld
35	Tax information form	Fully withheld

1. *Assessment reports*

We have provided you with both the Fisher Funds Management Limited Assessment Report and the National Interest Assessment Report. The assessment reports include a summary of the Applicant's submissions against the statutory criteria, our assessments of the application and the decision maker's reasons for granting consent. They are the key documents that are sent to Ministers to inform their decision where required.

Parts of the assessment reports have been withheld under the following sections of the Official Information Act 1982:

- 6(a) – making the information available would be likely to prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand; and
- 9(2)(a) – to protect the privacy of natural persons; and
- 9(2)(b)(ii) – to protect information that would likely prejudice the commercial position of the person who supplied or who is the subject of the information.

2. *Application form and supporting material*

We have provided you with the following documents in their entirety.

- The KGHL structure chart
- KGHL Certificate of Incorporation;
- Vendor information form;
- True and Correct Statutory Declaration from FFML;
- Investor Test Statutory Declaration from Greg Wallace;
- Investor Test Statutory Declaration;
- Appendix 3 Kiwi Wealth Group Structure;
- Appendix 6 Toi Foundation registration details and trust deed;
- Appendix 7 Certificate of Incorporation for FFML;
- Appendix 8 FFML Annual Report 2022;
- Certificate of Incorporation FFML HoldCo Limited; and
- Certificate of Incorporation FFML TopCo Limited;

3. The following documents were provided as supporting material to the application however parts of these documents have been withheld:

- The application form;

- The Applicant's structure diagram; and
 - An updated version of the Applicant's structure diagram.
4. The redactions made to those documents have been made either under s9(2)(a) of the Act, to protect the privacy of natural persons or under section 9(2)(b)(ii), where the making available of that information would be likely to unreasonably prejudice the commercial position of FFML and its related parties.
5. The following documents were provided as supporting material to the application however they have been withheld in their entirety under section 9(2)(a) of the Act, to protect the privacy of natural persons.
- Appendix 4 – Individuals with Control Passports;
 - Appendix 5 – Individuals with Control CVs;
 - Application signature form;
 - Greg Wallace – colour passport; and
 - Greg Wallace Individual with Control information and CV.
6. The following documents were provided as supporting material to the application however they have been withheld in their entirety on the basis that:
- (i) they are information which is subject to an obligation of confidence or which a person has been compelled to provide under any enactment (section 9(2)(ba) of the Act); and
 - (ii) the making available of that information would be likely to unreasonably prejudice the commercial position of FFML and its related parties (section 9(2)(b)(ii) of the Act).

Those documents are:

- Appendix 8 – Agreement for Sale and Purchase of Shares in Kiwi Wealth Management Limited between KGHM and FFML;
- Appendix 9 – FFML Shareholders' Agreement;
- Appendix 10 – FFML's Financial Delegations and Authorities Policy;
- Appendix 11 – Details of non-New Zealand government investors;
- Appendix 12 – Partnership Agreement between Kiwibank Limited and FFML;
- Appendix 13 – Transitional Services Agreement between Kiwibank Limited and FFML;
- FFML Privacy policy and Privacy Breach and Response Plan; and
- Tax information form.

7. *The third party submission and the response from FFML*

We have provided the third party submission and the response provided by FFML through their solicitors, Russell McVeagh. These documents have been redacted

only in respect of the email address of the third party submitter and the name and contact details of the relevant solicitor (both under sections 9(2)(a) of the Act).

8. *Written submissions from government agencies and the response from FFML*

- (a) The submission from MBIE has been partially redacted under section 9(2)(ba)(i) of the Act, to protect information which is subject to an obligation of confidence or which a person has been compelled to provide under any enactment.
- (b) The submission from MFAT has been withheld in its entirety based on section 6(a), where making the information available would be likely to prejudice the security or defence of New Zealand or the international relations of New Zealand; section 9(2)(g), where withholding is necessary to maintain the effective conduct of public affairs and section 9(h), to maintain legal professional privilege.
- (c) The submission from DPMC has been partially redacted under section 6(a), where making the information available would be likely to prejudice the security or defence of New Zealand or the international relations of New Zealand.
- (d) The submission from FMA has been partially redacted under sections 9(2)(b)(ii) (unreasonable commercial prejudice) and section 9(2)(a) (to protect the privacy of natural persons).

9. We note that the above government agencies provided submissions to Overseas Investment as part of our process for assessing applications which include a National Interest component. These submissions enable us to assess the national interest considerations of the proposed transaction and to produce the National Interest Assessment Report (which is included in the documents partially released). In accordance with our usual practice, these submissions were not provided to FFML and therefore there is no response from FFML to these submissions.

We note that the initial OIA request that we received in relation to the information discussed in this letter, also requested we include a response to the Minister of Finance's letter of 13 October 2023. We advised the requester that the Minister of Finance did not provide a response to that letter. The letter served only to notify the Minister that the proposed transaction had satisfied the investor test component of the consent requirements and invited the Minister to consider whether the transaction is contrary to New Zealand's national interest.

In this case, the Right Honourable Chris Hipkins assumed the obligation of the Minister of Finance to make a decision regarding whether the transaction was contrary to New Zealand's national interest. His response is recorded on the third page of the National Interest Assessment Report under the heading "Decision".

If you wish to discuss this decision with us, please feel free to contact us at oio@linz.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note, this response letter outlining our decision on your request, with your personal details withheld, and any attached documentation will be published on the Toitū Te Whenua Land Information New Zealand's website. This is likely to be published by the end of June.

Yours sincerely



Anneke Turton
Manager Applications Overseas Investment

Proactive Release