

## Phase 2 Overseas Investment Act reforms

### **Following on from the Government's first round of reforms (primarily relating to investments in residential properties and forestry), the Treasury has launched public consultation on 'Phase 2' of potential reforms to the Overseas Investment Act 2005.**

Anderson Lloyd is generally supportive of the stated objectives of this reform process and has made detailed submissions on the Treasury's range of recommendations. A link to our submissions can be found here: [Overseas investment reform submission form](#).

The Phase 2 reforms focus on three key areas of the Act, being:

- what is screened? (what assets are considered sensitive and require consent under the Act)
- who is screened? (who is considered an "overseas person" for the purposes of the Act); and
- how screening is carried out (the tests that the OIO use to decide whether an overseas person is eligible to invest in New Zealand).

The aim of the reforms is to achieve a better balance between the benefits and risks of overseas investment in New Zealand, and encourage more predictable, transparent and efficient outcomes.

Anderson Lloyd made submissions on all of the above areas, focusing on the overall process of applying for consent, as well as the more technical reforms suggested. Anderson Lloyd acts for a number of clients that are required to obtain consent under the Act, and

we are aware of certain shortfalls and issues with the current regime which, in our experience, can create uncertainty and added costs. We are keen to help improve these issues for our clients.

Some of the key areas where we support reform are as follows:

- increasing the threshold for consent to acquire leases of sensitive land (currently leases for a term of 3 years or more are captured and our view is that this time period is too short);
- increasing the percentage of overseas ownership required for domestic bodies to be classified as "overseas persons" (this is currently set at 25%);
- simplifying (and, in places clarifying) the benefits to New Zealand test; and
- introducing statutory timeframes on the decision making process that are tailored to each of the Act's consent pathways.

We are not in favour of introducing a "national interest" test (giving decision makers the power to assess "higher risk" applications). While we are supportive of protecting national interests, we think this undermines certainty, and a similar result can be achieved through the existing benefits test.

### **Want to know more?**

If you would like to find out more information on the Phase 2 reforms or New Zealand's overseas investment regime, please contact with one of our [Overseas Investment](#) specialists.