

Review of Third-Party Funding for the Overseas Investment Office

Proposals for a new fee structure and fee levels

Policy and Overseas Investment

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1 About this document

This document is organised into three parts:

- **Options for a new Overseas Investment Office fee structure**

This part assesses three options to amend the existing fee structure, informed by an analysis of alternative means of funding the Overseas Investment Office.

- **Proposals for new and updated Overseas Investment Office fees**

This part focuses on proposals that change the overall amount that is charged for certain Overseas Investment Office services, to ensure the equitable distribution of costs.

- **Overview of third-party funding and the overseas investment regulatory system**

The appendices include general information about the Overseas Investment Office, an overview of the overseas investment regulatory system, information on New Zealand agencies with similar functions, and reference to comparable overseas systems.

Submissions

We welcome submissions on the proposals contained in this document. Section 8 presents a list of key questions which you can use to structure your submission. We are seeking your views on all those proposals that interest you.

All submissions must be received no later than 5pm on Friday 19 March 2021.

We encourage you to make your submissions using the [template available on the LINZ website](#).

You can also make your submission by post, or email it to feesreview@linz.govt.nz

Mail: Third Party Funding Review Team
Land Information New Zealand
P O Box 5501
Wellington 6145

Providing a submission is optional and is not a legal requirement. You do not need to respond to all proposals – only those you have an interest in, or view on.

Official Information Act 1982

Submissions are official information and may be the subject of requests for information under the Official Information Act 1982. The Official Information Act specifies that information is to be made available to requesters unless there is a good reason for withholding it.

Submitters may wish to indicate grounds for withholding specific information contained in their submissions, such as where they consider information is commercially sensitive or they wish personal information to be withheld. LINZ will consider these requests in accordance with the provisions of the Official Information Act. Should LINZ decide to withhold information on request, any such decision is subject to review by the Ombudsman.

Next steps

All submissions received within the timeframe will be considered and used to inform advice to Government in relation to these proposals. The Government aims to implement policy decisions through amended Regulations in 2021.

LINZ will undertake stakeholder engagement during the consultation period. If you would like to meet with LINZ officials to discuss the contents of this document, or other matters related to third party funding of the Overseas Investment Office, then please email feesreview@linz.govt.nz.

2 Summary of proposals

The Overseas Investment Office is a business unit within Land Information New Zealand (LINZ). The Overseas Investment Office administers New Zealand's overseas investment laws and works to ensure New Zealand realises the benefits of overseas investment, while protecting sensitive assets.

Cost recovery from third parties ensures that New Zealand's overseas investment regime is funded from investors which benefit from the privilege of purchasing sensitive New Zealand assets. Overseas Investment Office operational funding comes from third parties, through 60 fees and three hourly charges authorised under the Overseas Investment Act and Regulations 2005, and the Fisheries Act 1996.

A LINZ review of third-party funding has found that the level of fees has consistently been insufficient to meet the costs of operating the Overseas Investment Office. The Overseas Investment Office reported an operating deficit of \$3.35 million in the 2019/20 financial year (excluding Crown funding for monitoring and enforcement). As at 30 June 2020, the balance of the Overseas Investment Office memorandum account was a deficit of \$8.48 million.

LINZ is consulting on proposals to ensure the costs of providing the current Overseas Investment Office services are recovered in fees paid by the users of the services.

LINZ proposes a shift away from the current system of a single fee for applications. New lodgement fees would more accurately reflect the costs of providing quality assurance (including completeness checks) of applications, and new monitoring fees would recover the cost of monitoring compliance with consents for transactions. LINZ proposes maintaining the existing fees for 'One Home to Live In' applications.

LINZ proposes introducing 'standard' and 'complex' assessment fees for accepted applications to purchase land, business, forestry, and fisheries assets. While most applicants with 'standard' applications would pay assessment fees comparable to the current system, those applicants with 'complex' applications would pay more to reflect the higher costs.

The proposed changes will more accurately reflect the costs of assessing applications for transactions for residential land development, significant business assets and sensitive land, forestry assets and fishing quota.

For the approximately 75 percent of applications which are 'standard', total fees for significant business asset applications would increase by just over 20 percent, and total fees for sensitive land applications would increase by 75 percent.

For the approximately 25 percent of applications which are 'complex', total fees for significant business asset applications would nearly triple, and total fees for sensitive land

applications would more than triple from current levels. These increases are expected to have a minor impact on most applicants, given the marginal cost of fees relative to the value of the transaction.

The proposals are summarised in Table 1. LINZ is seeking your views on all the proposals that interest you. Section 1 explains how to provide feedback on the proposals, and Section 8 sets out particular questions for stakeholders.

The Overseas Investment (Urgent Measures) Amendment Act 2020 was introduced and passed into law during the fourth quarter of the 2019/20 financial year. The Act introduced a national interest assessment for some applications, and an additional fee for this assessment was included in the Regulations. The LINZ review of third-party funding reflects the actual experience of operating the national interest assessment and a revised fee is proposed.

The impacts of COVID-19 on overseas investment applications and fee revenues have been estimated as part of this review of third-party funding. LINZ has attempted to incorporate the potential impacts on application volumes in determining fees, and will continue to monitor application volumes up until revised fees have been finalised. Information on the actual impacts and changes from further legislative reform will be incorporated in a subsequent review, which LINZ plan to undertake within the next two years.

The deadline for feedback on the proposals in this document is **5pm, Friday 19 March 2021**.

Table 1: Summary of proposed Overseas Investment fee updates

Transaction asset type considered by the Overseas Investment Office	Application category	Application volumes (2019/20 year): Total of 451*	Current application fees (GST inclusive)	Preferred Option B: New differentiated fee structure – total fees (GST inclusive)**	
				Lodgement fee + standard assessment fee + monitoring compliance fee	Lodgement fee + complex assessment fee + monitoring compliance fee
Residential	One Home to Live In	247	\$2,040	\$2,040	
	Property to inhabit (with special land)	2	\$24,600	\$16,900	\$32,000
	Apartments purchased off the plans	0	\$2,040	\$2,040	
	Increasing housing supply	5	\$34,100	\$35,000	\$54,100
	Using for non-residential purposes	3	\$34,100	\$35,000	\$54,100
	Land used incidentally for residential purposes	1	\$34,100	\$35,000	\$54,100
	Standing consent	4	\$13,000 (transaction)	\$16,800	\$29,900
Sensitive Land	Benefit to New Zealand	70	\$41,500	\$72,500	\$141,200
	Intention to reside	1	\$22,500	\$47,300	\$97,700
Business Asset	Significant Business Assets	23	\$32,000	\$38,800	\$86,700
Forestry	Special forestry test	31	\$34,100	\$30,800	\$57,100
	Standing forestry consent (Ministerial)	2	\$34,100	\$31,200	\$54,700
Fishing quota	Individual Transferable Quota, or Annual Catch Entitlement	1	\$40,000	\$174,300	
National Interest assessment		n.a.	\$52,000	\$83,700	

- * Excluding variations and exemptions, and National Interest assessments.
- ** The differentiated structure (Option B) would be made up of three different fees, which would be charged separately and at different times, as follows:

Lodgement fee for quality assurance and completeness checks (charged once, when an application is provided)

Application assessment fee, differs for standard and complex applications (charged once, when an application is accepted)

Monitoring compliance fee, to assess compliance with consent conditions (charged once, before consent is approved).

Section 6 provides further information on the components of the three fees.

3 The problem this review is addressing

The Overseas Investment Office is a business unit of Land Information New Zealand (LINZ). The Overseas Investment Office administers New Zealand's overseas investment laws, and works to ensure New Zealand realises the benefits of overseas investment, while protecting New Zealand's sensitive assets.

In recent years Overseas Investment Office costs have considerably exceeded the fee revenues from applicants, particularly from 2016 (see Appendix 1). The goal of this review is to implement a fees system that ensures applicants pay the full costs of assessing their applications, to ensure the efficient and effective administration of the Overseas Investment Act 2005.

Why the Overseas Investment Office receives third-party funding

The Overseas Investment Act 2005 (the Act) states it is a privilege for overseas persons to own or control sensitive New Zealand assets. The rationale for the Overseas Investment Office receiving third-party funding, through fees, is that services lead to a private benefit for the overseas person (that is, an application to purchase sensitive New Zealand assets).

Given the significant nature of this private benefit, it is more appropriate for the overseas applicant to pay for the cost of services, than it is for these costs to be paid through Crown funding. This rationale is consistent with the guidance on charging fees from the Treasury and the Auditor-General. Conversely, if the Crown was to largely or fully fund the operations of the Overseas Investment Office, then this would mean that taxpayer funds were being used to support a private benefit to overseas persons.

Why third-party funding is important to the Overseas Investment Office

Third-party funding through fees is only undertaken when there is a lawful authority provided for in legislation and regulations. The Overseas Investment Office receives its operating funding from third parties, in the form of fees charged to applicants. These fees support an assessment system based on consideration of the risks which overseas investment can present to New Zealand's interests.

Third-party funding plays an important role in ensuring that the Overseas Investment Office is resourced to provide services to overseas persons and investors, on behalf of the New Zealand public. These services include providing information and advice for prospective applicants, assessing applications, consenting transactions (in line with the

Ministerial Directive Letter), monitoring compliance with consent conditions, and taking enforcement action against non-compliant investors.

In the case of monitoring and enforcement activities by the Overseas Investment Office, the significant element of public good has supported a case for some taxpayer funding for these activities. The public good is a result of maintaining the integrity of the overseas investment regulatory system, by ensuring compliance with the system by all overseas investors.

Completion of a review of third-party funding arrangements

LINZ has undertaken a review of third-party funding arrangements for the Overseas Investment Office. This review ensured a principled, consistent and transparent approach to cost recovery, and ensured that arrangements align with best practice guidance from the Treasury and the Controller and Auditor-General.

The following five principles inform the proposals set out in this consultation document.

- 1 **Fair:** Users of services should pay unless there is a good reason for them not to. Costs to be recovered should be allocated according to those who receive the service.
- 2 **Effective:** The funding approach or method should support the objectives and/or reasons as to why the service is provided.
- 3 **Efficient:** The funding approach should help ensure service offer value-for-money. This can be defined as administrative efficiency (that is, more of the service cannot be provided without sacrificing provision of another service) and economic (allocative) efficiency (that is, the service provides a marginal benefit to the user equal to the marginal cost of operating the service).
- 4 **Sustainable:** The funding approach must support the long-term financial sustainability of services. Reliance on taxpayer funding should be minimised.
- 5 **Transparent / predictable:** There must be a clear line of sight between the service provided and the costs to be recovered. It must be clear to the user as to what service the fees are being collected for, from whom, and why.

Proposals based on review findings

This consultation document includes information about the drivers of Overseas Investment Office operational costs and service (application) volumes. LINZ proposes a series of changes in the third-party funding system which were identified in the review (see Section 6). Subject to the outcome of consultation and Government decisions, these changes are intended to take effect later in 2021.

This review focused on recovering the operational costs of the reform to the Overseas Investment Act 2005 which was implemented on 22 October 2018. This reform introduced pathways for applications to purchase residential property, residential land and forestry assets.

This review also proposes cost recovery of the proposals approved in the Overseas Investment (Urgent Measures) Act 2020 which came into force on 16 June 2020.

The proposals in this document are based on a financial model of the operational costs incurred by the Overseas Investment Office in delivering its services to applicants. This model does not assume recovery of the balance of the Overseas Investment Office memorandum account, which was a deficit of \$8.48 million as at 30 June 2020.

Goods and Services Tax (GST)

The proposals in this document describe fees and charges on a GST-inclusive basis. LINZ has taken this approach because the current fees and charges are specified on a GST-inclusive basis in Schedule 2 of the Overseas Investment Regulations 2005 (see Appendix 4). This reflects the convention for fees regulations. Applicants (that is, overseas persons) pay GST as a part of their application fee.

4 Options for the Overseas Investment Office fee structure

The current fees structure

The Overseas Investment Office currently charges one fee to applicants, when their application is accepted. There is no lodgement fee for assessing the quality (including checking the completeness) of applications, and no follow-up additional fees for services (for example, to recover the costs of monitoring compliance with consent conditions). Essentially, a 'one touch-point' payment system is operated for all applicants. The application fees are based on a simple weighted average cost model, using the methodology developed for a previous [fees review in 2015/16](#).

This means the existing fees tend to under-recover the costs of applications and especially the costs of more complex applications (for example, applications to purchase sensitive land or fishing quota). The Overseas Investment Office does not currently operate an hourly charging system to calculate the fees which are charged to applicants.

Options for funding

LINZ identified four high level options for how the Overseas Investment Office could be funded. Each option is summarised in terms of its advantages, disadvantages and risks, and an overall assessment is then stated.

Option 1: Maintain the existing fees for the Overseas Investment Office (status quo)

This is the basis for the current system, in which most of the funding for the operation of the Overseas Investment Office is from fees charged to third parties (applicants). Under this approach fees would be maintained at current levels, as stated in the Overseas Investment Regulations 2005.

Advantages

- No additional costs for applicants (i.e. overseas persons)
- The existing fee system (i.e. as charged to applicants) is already administratively efficient
- The existing fee system is consistent with user pays / beneficiary pays principles

Disadvantages

- Due to the expanded regulatory requirements of the overseas investment regime this option would result in insufficient funds to operate the Overseas Investment Office, leading to ongoing deficits and operational risks to delivery
- The timeliness of assessment of applications would be adversely prolonged

Risks

Likely to lead to significant adverse effects on the timeliness and cost-efficiency of services, as revenues would not meet current operational costs and so staff numbers and capabilities would need to be adjusted and restructured.

Option 2: Fund the Overseas Investment Office through updated fees (preferred)

Fees would be set at levels that fully recover the costs of each of the Overseas Investment Office functions, duties and outputs from those who benefit. This would result in adjusted fees for each application type and pathway, by amending the rates stated in the current Regulations. Fees would reflect changes in legislative/regulatory requirements and changes in the regulator's costs.

Advantages

- Consistent with Treasury guidelines on charging the users (i.e. overseas investors) for the benefits resulting from the efficient administration of the Act and regulations
- Increased fee revenues would support the full recovery of costs

Disadvantages

- Additional costs for applicants, equal to the additional fee revenue paid to the Overseas Investment Office

Risks

An increase in fees will have a greater impact on lower value investments and may impact perceptions of the attractiveness of investment in New Zealand assets. However, the high value of investment screened by the Overseas Investment Office, and the relatively low level of corresponding fees, suggests the proposals are likely to have little impact on the level of applications from overseas investors.

Option 3: Adopt a fully Crown-funded model

An alternative to third-party funding is to have all Overseas Investment Office outputs funded on an ongoing basis by the Crown through amended baseline funding (and/or a multi-year appropriation). There would be no, or very limited, third-party funding through fees or charges, on a presumption that overseas investment is beneficial to New Zealand (see Appendix 1).

Advantages

- Increases the business value proposition for overseas investors relative to our trading partners
- Reduces policy, regulatory and administration costs for LINZ

Disadvantages

- Removes a primary source of funding for the regulator (users) and imposes the cost on taxpayers
- Lacks transparency, as Crown funding breaks the link between who created the costs and who pays
- Is contrary to Treasury and Auditor-General guidance on charging the users who benefit from services
- Removes any fee price signals for applicants, reducing the incentives to provide high quality applications to the regulator

Risks

Crown funding may not ensure revenues meet the on-going costs of LINZ in operating the Overseas Investment Office.

Option 4: Adopt a levy system

This option would see the current fee structures replaced with a levy on overseas investors, and would require a change to section 61 of the Overseas Investment Act 2005. A levy could be set at a level to cover the costs and outputs of the Overseas Investment Office. The levy could either be structured to require payment upon application (much like current fees), or as a periodic (for example, annual) amount, charged to investors who have obtained consent.

Advantages

- Could deliver a more regular ongoing revenue source from consent holders.
- Can be annually adjusted to account for changing costs (up or down).
- Removes (to some extent) policy and administration costs associated with fee reviews and adjustment to regulations.

Disadvantages

- A levy is less likely than fees to cover all the activities and costs of the regulator. For example, overseas investors whose applications are denied could not be levied.
- A levy is unlikely to respond efficiently to changes in overseas and local ownership/business structures. For example, it could not be feasible to levy previously approved investors, or investors which have sold their New Zealand investments.
- Business investment and ownership structures regularly change, and it will be difficult for levy setting and administration systems to keep pace.
- Overseas investors are usually based overseas, which means they are not subject to New Zealand law. It is unclear how penalties could be designed or enforced for any non-payment of levies.

Risks

A levy system could be difficult to design and implement because the overseas investment regime does not assume a close and enduring relationship between the regulator and the overseas investor, nor the financial pooling of benefits and risks. There would be significant operational costs and difficulties as a domestic regulator overseeing predominantly overseas persons.

Preferred option

The five principles for the review are then applied to the four options for third-party funding of the Overseas Investment Office (Table 2). This assessment shows that the preferred option is to **fund the Overseas Investment Office through updated fees**. The second-best option would be to adopt a fully Crown-funded model.

Table 2: Assessment of four options to fund the Overseas Investment Office

	Options for third-party funding for the Overseas Investment Office			
	1) Maintain the existing fee structure and levels for the Overseas Investment Office (status quo)	2) Fund the Overseas Investment Office through updated fees	3) Adopt a fully Crown-funded model	4) Adopt a levy system
Principles*				
Fair	0	0	-	-
Effective	-	+	+	-
Efficient (administrative)	-	+	+	-
Efficient (economic)	-	+	-	-
Sustainable	-	+	0	-
Transparent/predictable	0	0	-	-
Net assessment	-4	+4	-1	-6

Key:

- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo

*The assessment is on the basis that the principles have equal weighting. Different weightings of the principles could lead to different assessments.

Three options for a fee structure

The review has developed three detailed options for changing the fee structure, assuming a continued reliance on third-party fees to fund Overseas Investment Office activities. The key characteristics of these options compare customer simplicity and costing accuracy (Figure 1).

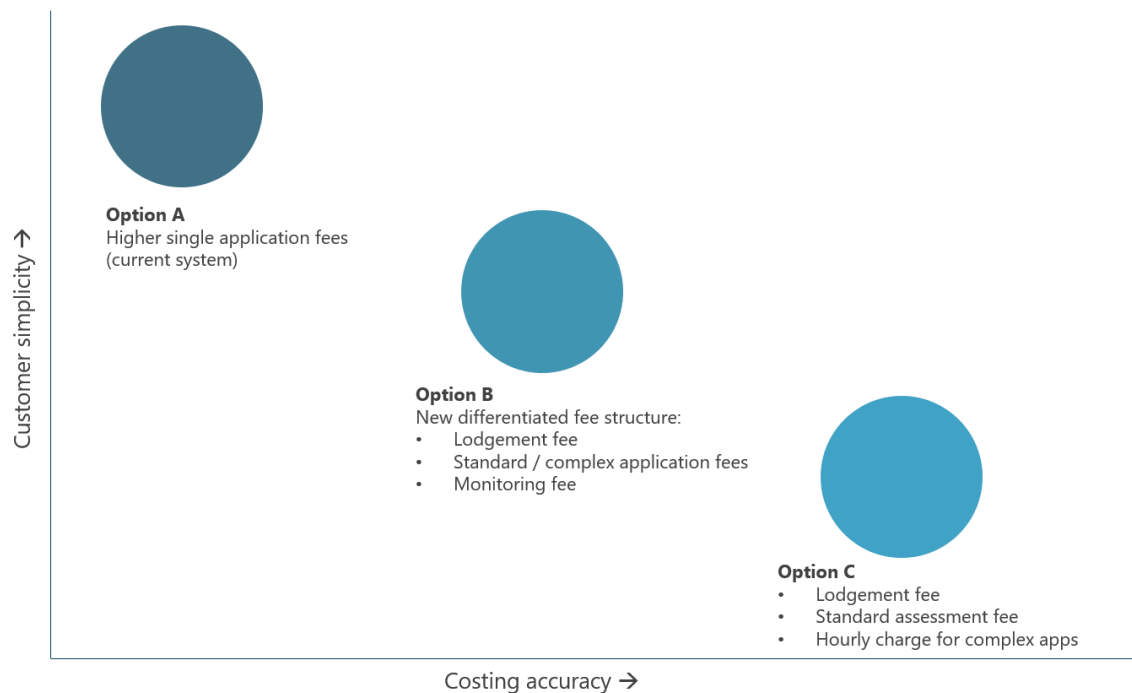


Figure 1: Options for the Overseas Investment Office fees structure

Option A is the current system with higher fees. It is relatively simple for applicants ('customers') and the Overseas Investment Office to administer. It is, however, less accurate in costing the actual time required to assess complex applications. A general rise in fees would maintain the existing issue of under-recovery of costs for quality assurance activity, for assessing complex applications, and for monitoring compliance with consent conditions.

Option B is intended to address the problem that the Overseas Investment Office is not recovering all the costs it incurs in carrying out quality assurance of applications, monitoring compliance with consent conditions, and assessing applications based on their complexity.

The proposed new fee structure is illustrated below, Figure 2. Currently the Overseas Investment Office can only charge a single fee for each application type (shaded in **light blue**). LINZ proposes introducing a new lodgement fee, and a new monitoring compliance fee before final consent approval (both shaded in **dark blue**).

LINZ proposes a shift away from the current system of a single fee for applications, to introduce variable standard and complex fees for applications. This fee structure would be intended to reflect the significant additional staff time which is needed to assess complex applications for the purchase of sensitive land, significant business assets, forestry assets and fishing quota. These costs are discussed in Section 5.



*Not to be charged to One Home to Live In applications

Figure 2: Proposed Overseas Investment differentiated fee structure

Option C would introduce a lodgement fee, together with a standard application fee, and an hourly charge for assessing applications after a set period. Other comparable New Zealand agencies, such as the Financial Markets Authority (FMA) and the Environmental Protection Authority (EPA), apply hourly-charging systems as the basis for some of their fees to recover costs from applicants (see Appendix 2).

The respective advantages and disadvantages of each approach for the Overseas Investment Office are summarised in the following tables. Each option would adjust fees to recover the full cost of regulatory services.

Option A: Higher single application fees

The single fee for each pathway includes the costs of quality assurance, application assessment/processing and subsequent monitoring compliance costs.

The updated fees are based on current cost structures and apply a simple weighted average cost (WAC) approach to modelling fees across the application pathways.

Advantages

- Retains the existing system's broad consistency with user pays principles (applies to all options).
- Same fee charging structure as already used.
- Relatively easy to administer, and single fees provide price certainty for applicants.

Disadvantages

- Risks continuing to under-recover the costs associated with quality assurance, complex application assessments and monitoring compliance.
- Difficult for fee payers (applicants) to see what level of services were applied to their application.
- Unsuitable to the operating environment where the costs of providing services are dissimilar, and there is a small pool of (investor) applicants.

Option B: A new differentiated fee structure (preferred)

Fees would be set at levels for each application pathway and for each key function:

- Lodgement fee (charged once, when an application is provided). There would be no charge for the pre-assessment meeting with prospective applicants.
- Application assessment fee, for standard and complex applications (charged once, when an application is accepted).
- Monitoring compliance with consent conditions fee (charged once, before consent is approved).

Advantages

- Provides clarity of costs for applicants. Reduced risk of under-recovery of costs.
- Lodgement fee, and complex application fee, provide a (modest) incentive to provide complete applications.
- Deliberation time on proposals to purchase particularly sensitive assets is accounted for by complex application fees.

Disadvantages

- Administration is more complex for both the Overseas Investment Office and applicants.
- Mis-classified applications could mean costs are not fully recovered (for example if an application is assessed as standard, but turns out to be complex). Clear guidance for applicants and published business rules would need to be developed.

Option C: Variable fee structure combined with an hourly charge for Complex applications

A lodgement fee to recover the costs of quality assurance would be introduced, together with standard fees for application assessment. For complex applications, hourly charges would be advised to the applicant and imposed after a set period of time (at \$337 per hour including GST).

Advantages

- Based on the actual time required for a complex assessment, and would accurately reflect costs

Disadvantages

- Could lead to a range of different costs for complex applications regardless of the value or asset type of the transactions. This could be viewed as a reduction in the transparency and predictability of New Zealand's overseas investment regime.
- Initial and on-going cost to implementing an hourly charging system.
- An hourly charging system using monthly invoices could entail debt collection issues (including an increased risk of non-payment if applications are declined).

Option B is the preferred solution

The LINZ assessment of the respective advantages and disadvantages of the three options is that Option B (a new differentiated fee structure) would best meet the objective of designing a fees system that creates the appropriate incentives for applicants and the Overseas Investment Office to ensure the efficient and effective administration of the Act. The options are assessed according to the key principles referred to on page 13.

The LINZ assessment of Option B is that a new fee structure would combine greater accuracy in the cost recovery of activities, while maintaining a high level of predictability for applicants. A differentiated structure would provide enough fee revenues to recover the costs of operating the Overseas Investment Office.

The introduction of standard and complex fees is enabled under the current provisions of the Overseas Investment Act 2005. Section 36 authorises the Regulator (that is, the Overseas Investment Office) to issue guidelines for any other matters relating to applications, including the criteria and consent process. Section 61(1)(e) of the Act

enables regulations to prescribe a means by which fees and charges may be calculated and ascertained.

The proposed fee to monitor compliance with consent conditions would be consistent with the use of a resource consent monitoring fee which is commonly applied by regional councils. This monitoring fee is permitted by section 36(1)(c) of the Resource Management Act 1991. Councils generally charge a fee based on an hourly charging rate.

The LINZ assessment of Option C (variable fee structure combined with an hourly charge) is that while time-based fees would transparently show the costs of the service, such an approach could introduce a significant risk to the predictable operation of the fees system. Prospective applicants would not have an upfront idea of the total fee to assess their application.

The Overseas Investment Office has a small volume of annual applications which can vary considerably in relative complexity, and there would be significant administrative costs in introducing a time-based charging system.

All options propose that the 'One Home to Live In' fees be maintained at the current amount of \$2,040 (including GST). The policy objectives of 'One Home to Live In' are to restrict overseas persons who can purchase New Zealand residential property to ensure that the prices of New Zealand homes are set on the domestic rather than international market. These objectives appear to be met by the current application and assessment process.

Table 3: Assessment of options for a fee structure

Principles *	Option A Higher single application fees	Option B A new differentiated fee structure	Option C New fee structure combined with an hourly charge
Fair	0	+	+
Effective	+	+	+
Efficient (administrative)	0	+	-
Efficient (economic)	0	0	+
Sustainable	+	+	+
Transparent/predictable	0	+	-
Net assessment	2	5	2

Key:

- + better than the status quo
- 0 about the same as the status quo
- worse than the status quo

*The assessment is on the basis that the principles have equal weighting. Different weightings of the principles could lead to different assessments.

5 The costs of the Overseas Investment Office

Since 2009 the application fee revenues paid to the Overseas Investment Office have not met the operating costs of assessing applications, resulting in ongoing operating deficits (see Appendix 1).

The operating costs of the Overseas Investment Office have substantially increased since the 2015/16 financial year. The 2015/16 fees review did not fully recover the subsequent costs of additional functions for the Overseas Investment Office (including monitoring and enforcement). A declining trend in applications also had an impact on the fee revenues.

The 2018 reform to the Overseas Investment Act 2005 introduced new application pathways for One Home to Live In, residential land, and forestry transactions. The costs of the new functions to administer the pathways have not been able to be fully recovered from the respective application fees. The 2020 reform to the Act introduced an emergency notification regime – which does not have a fee applied – and a new national interest assessment for some applications, with a specific fee.

LINZ undertook an internal cost-modelling assessment of the activities of the Overseas Investment Office. This focused on the costs of staff time to quality assure, and assess, applications, and then to monitor compliance with consent conditions. The Overseas Investment Office does not currently operate a time charging system for fees.

LINZ carried out a series of workshops with all staff to determine the activities and time required to complete steps in the application process. This information formed the basis of a cost model, which was independently tested by PricewaterhouseCoopers to ensure that it operated as intended.

This section describes the key findings of the cost model in respect of the current Overseas Investment Office activities. The current fees system has the following limitations:

- a. There is not a fee to recover costs for the quality assurance of applications
- b. The application fees do not vary according to the complexity of the assessment required for a proposed investment
- c. There is not a fee to recover costs for monitoring compliance with consent conditions.

Composition of an hourly cost

The cost model has determined that the average hourly cost of Overseas Investment Office operations (across all staff) is \$293 per hour excluding GST, composed of personnel and business support costs including corporate, accommodation, and information technology (Figure 3).

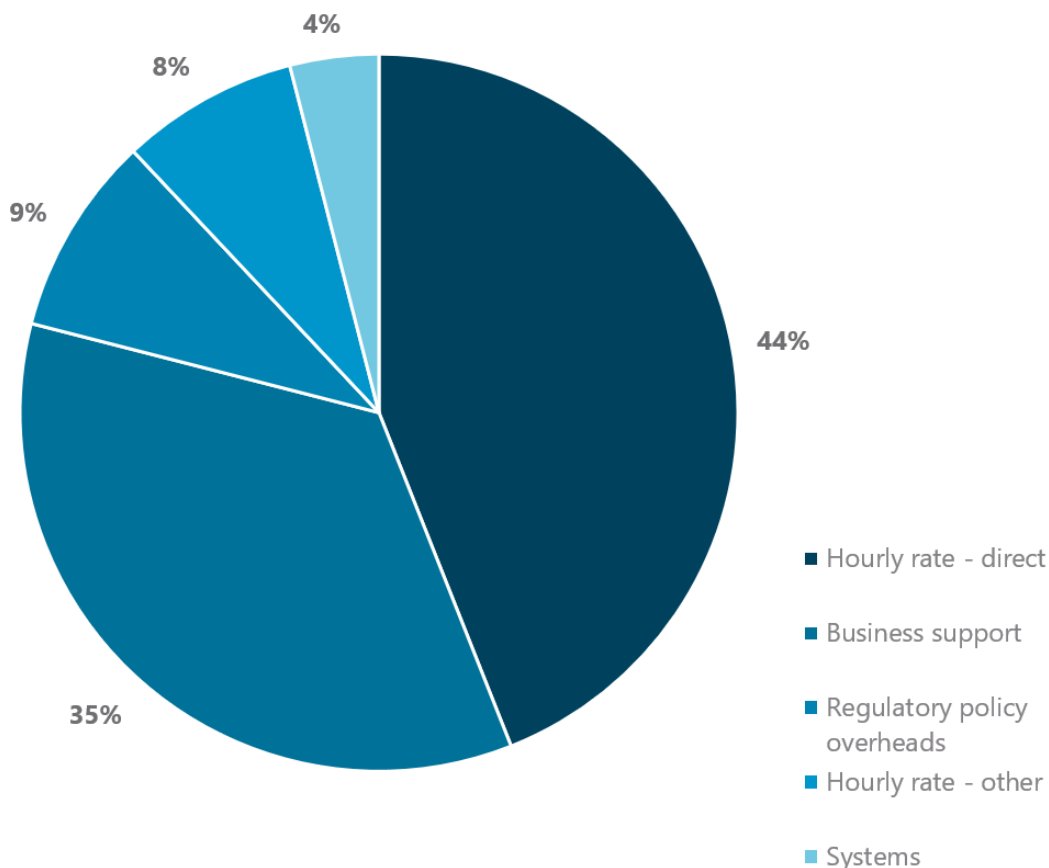


Figure 3: Composition of an Overseas Investment Office hourly cost (excluding GST)

A lodgement fee for quality assurance

Quality assurance consists of staff reviewing applications, providing feedback and requests for further information, and undertaking often multiple additional reviews as needed, before a final application is accepted for assessment. In some cases, applicants do not proceed with a formal application after initial quality assurance and completeness checks, meaning that the Overseas Investment Office costs are not recovered.

The main cost drivers for the quality assurance and completeness checks in the application pathways are personnel and business support costs. The average staff time required for this function is 25 full-time equivalent hours per application; 56 percent of

this time is quality assurance of the draft application, and 26 percent is due diligence risk assessment. The remaining 18 percent is spread across five other activities (Figure 4).

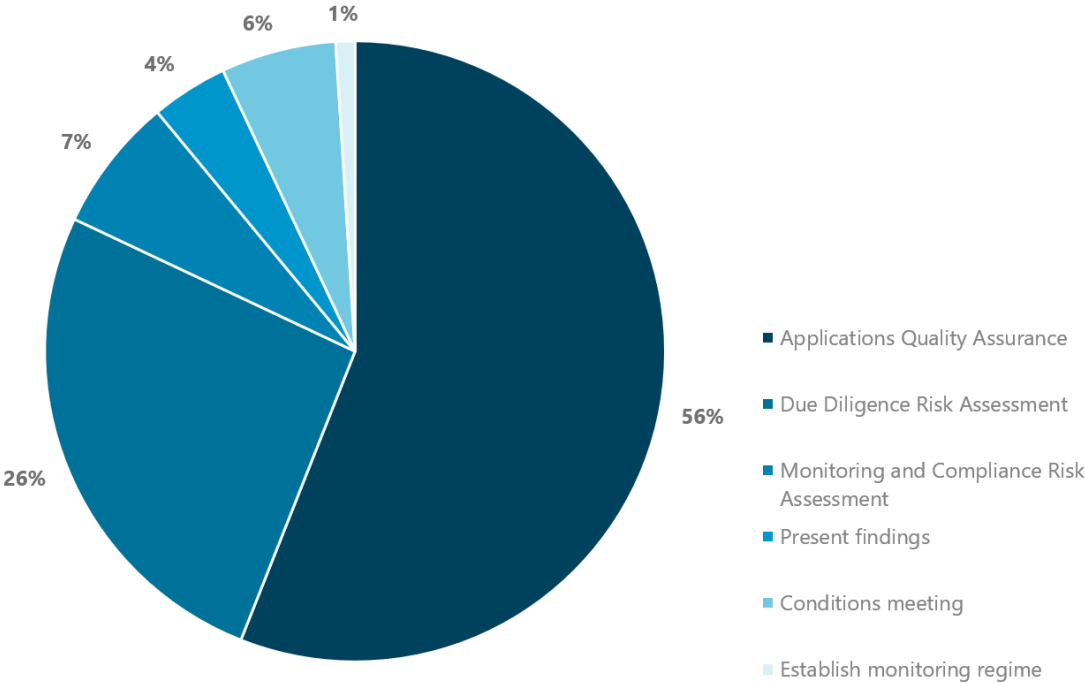


Figure 4: Quality assurance of applications, average time by activity

The costs of staff time increase rapidly depending on the level of complexity, from around \$2,000 for ‘small’ applications, up to approximately \$60,000 for the fewer expected numbers of ‘extreme’ complex applications (Figure 5).

These costs include quality assurance across all application pathways, including One Home to Live In (OHTLI) applications which tend to cluster towards the small and medium levels of complexity. For the proposed new fee structure, the standard category includes small and medium complexity applications, whereas the complex category includes large and extremely complex applications.

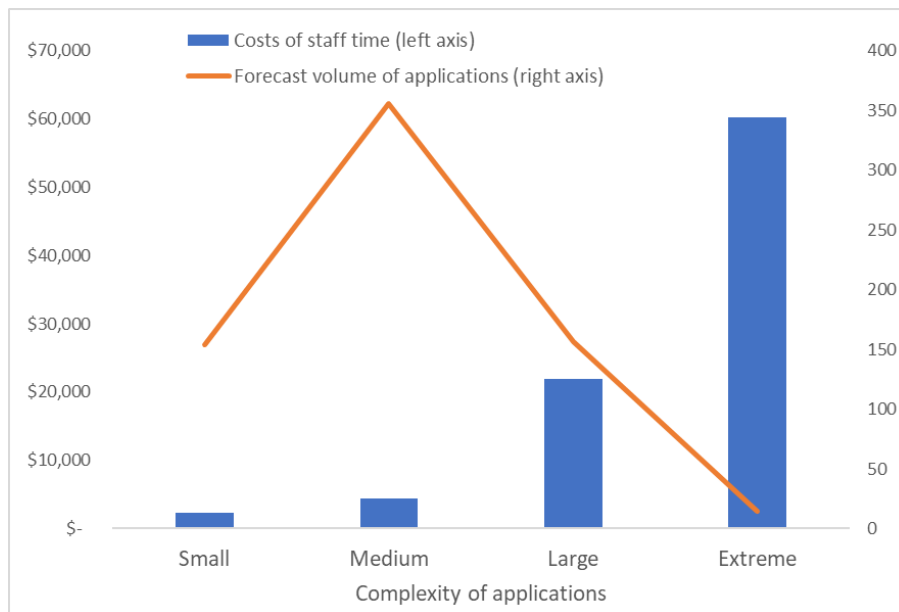


Figure 5: Quality assurance of applications, costs by level of complexity

Assessment of applications

The main cost drivers for the assessment service in the application pathways covered in this proposal are personnel and business support costs. These costs apply to the assessment processes for all residential land, sensitive land, significant business asset, forestry, and fishing quota applications.

The average staff time for processing land and asset applications is approximately 164 full-time equivalent hours, which consists of pre-application review activities (5 percent), assessment (65 percent), recommendation and review (21 percent), and issuing the decision (3 percent). A significant number of applications require Ministerial engagement, which can add up to 5 percent of average assessment and decision-making time (Figure 6).

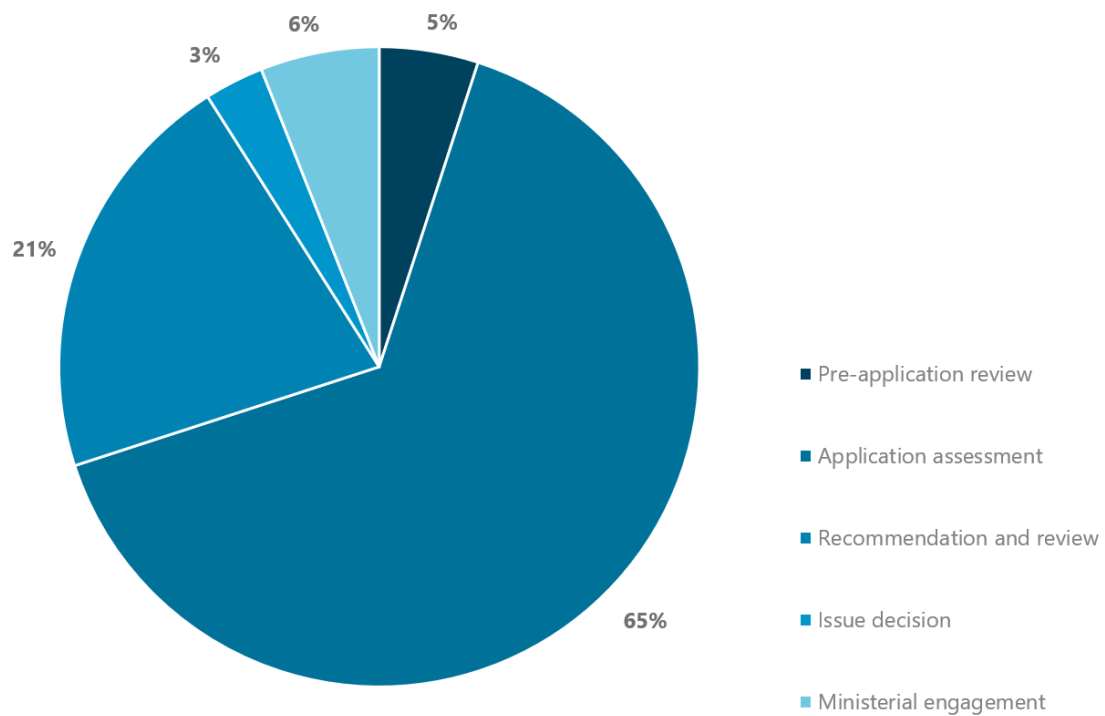


Figure 6: Land and asset application pathways - average processing time

The staff time required to assess, and process, land and asset applications varies considerably depending on the complexity of applications. The LINZ review has found that about 75 percent of applications are standard, and 25 percent are complex. Complex applications require about three times as many assessment hours as standard applications. The activities of recommendation and review, and Ministerial engagement, also take about three times longer for complex applications (Figure 7).

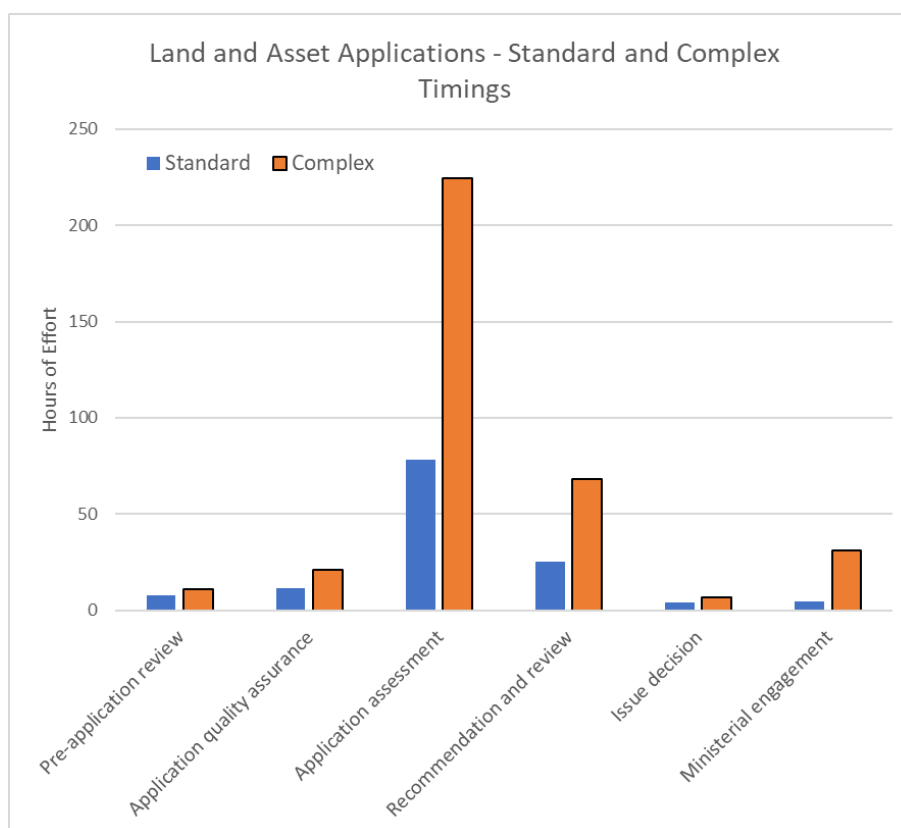


Figure 7: Land and asset application pathways - hours for standard and complex applications

Complex applications are not dependent on the value of the transaction, or necessarily on the type of assets being purchased. Complexity reflects factors such as:

- Investor risk profile (including potential character issues)
- Corporate structure being used to action the proposed investment
- Degree of consultation that may be required
- Nature of the benefit arguments being advanced
- Sensitivity of the asset sought for purchase.

Under a new fee structure, these complexity factors will be outlined in published guidelines for all applicants. This will provide clarity to applicants as to how their application will be assessed.

The costs of staff time for application assessments increase rapidly depending on the level of complexity, from around \$20,000 for 'small' applications, to a high of nearly \$170,000 for 'extreme' applications (Figure 8).

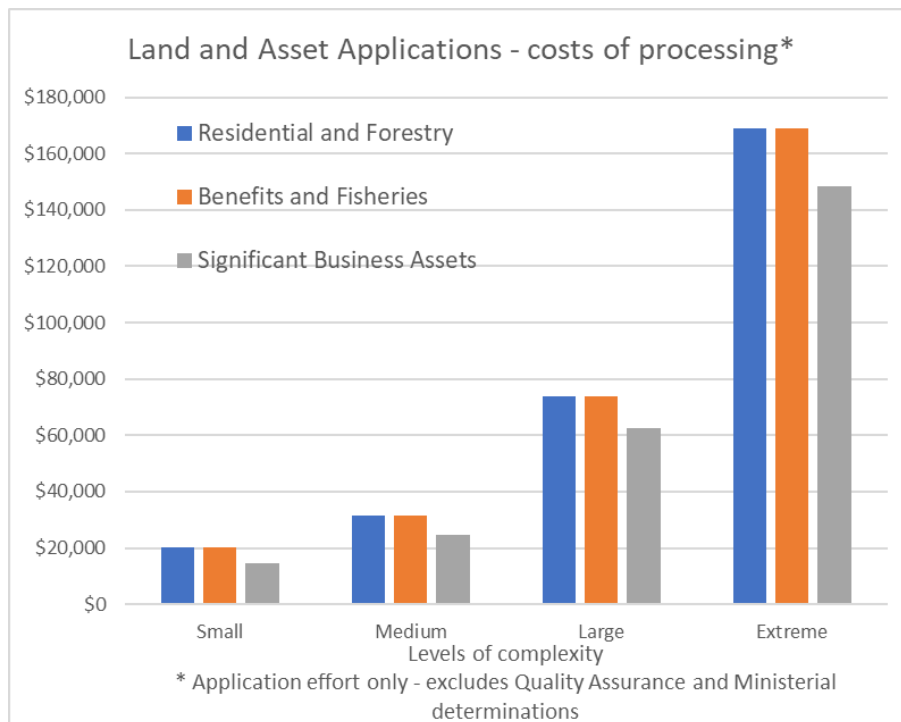


Figure 8: Land and asset application pathways - costs by level of complexity

For significant business asset applications, the relative operational costs of assessing these applications tends to be at the 'medium' level of complexity. This results in a relatively limited change to the proposed total fee for assessing applications for consents to purchase significant business assets (see Section 6).

For forestry applications, the relative operational costs of assessing these applications tends to be at the 'medium' level of complexity. However, the expected costs of assessing profits à prendre¹ applications and using the modified benefits test would be at the 'extreme' level of complexity, resulting in substantial changes to the fees for these types of applications.

For fishing quota applications, the operational costs of assessing these (relatively rare) applications are at the 'extreme' level of complexity given the high sensitivity of this asset. The complexity also reflects the additional tests required under section 57 of the Fisheries Act 1996.

¹ Profits à prendre refers to a right to take produce from another's land (in this case timber).

Monitoring compliance with consent conditions

During a cost assessment from 1 July to 1 November 2019, the monitoring compliance services operated by the Overseas Investment Office required 900 full-time equivalent (FTE) hours for monitoring and intelligence activities. This means that on a full-year basis, approximately 2,700 FTE hours are expected to be required for the monitoring compliance service. Average monitoring compliance fees for significant business asset, residential land development, sensitive land, and forestry applications can be calculated based on the annual number of those applications (excluding OHTLI, due to the compliance requirements for that application pathway).

The great majority of monitoring compliance activity is dedicated towards assessing compliance with the 'Benefit to New Zealand' test required by the Act. Around 84 percent of compliance activity is dedicated to this test, primarily in 'medium' and 'high' complexity cases. The next highest level of monitoring compliance is for significant business assets, which is about seven percent of activity (Figure 9). The relatively small (annualised) number of 'extreme complexity' cases make up a disproportionately high level of compliance activity.

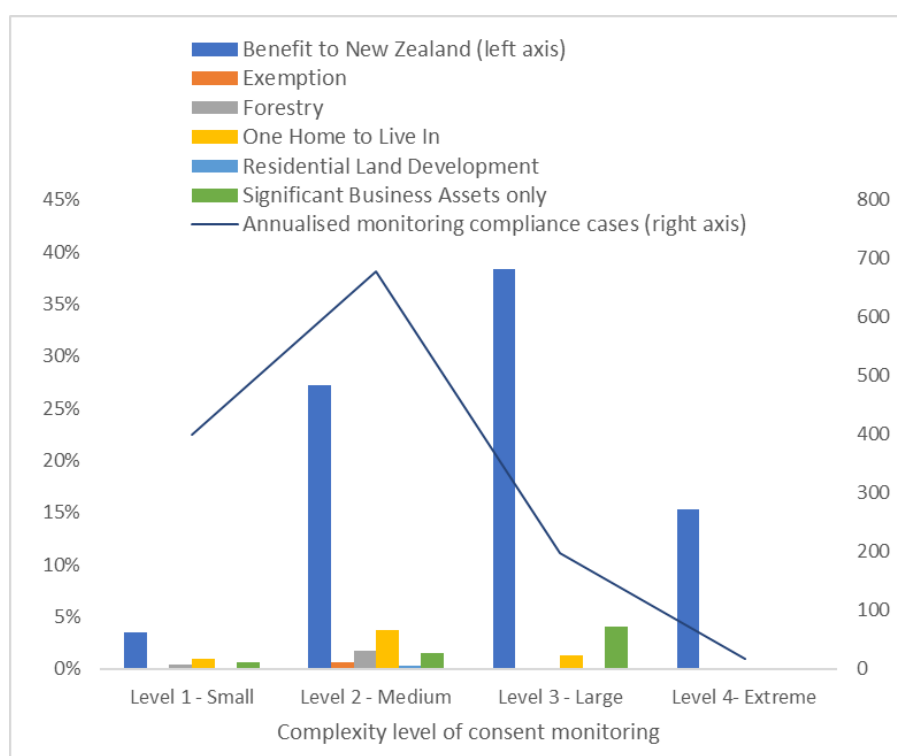


Figure 9: Monitoring compliance activity by level of complexity

The costs of enforcement activities, which may result from monitoring compliance with consent conditions, are incorporated in the application assessment fee. This reflects the fact that all applicants bear the risk, and costs, of some applicants choosing not to comply

with the conditions of their consent (that is, consent compliance is a club good).

Since 2018 the Crown has provided some funding to meet the costs of enforcement on those investors who have chosen not to comply with the requirements of the Act and Regulations (that is, they have not applied for approval of their investment proposals).

This funding reflects the fact that these investors have not paid fees to have their transaction assessed, and so it would not be appropriate to use general fee revenues to meet the costs of undertaking enforcement activities in these cases.

National interest assessments

As part of implementing the changes in the Overseas Investment (Urgent Measures) Amendment Act 2020, the Government approved a national interest fee of \$52,000 (including GST), to be applied to those applications which require a national interest assessment. This fee was authorised in the Overseas Investment Amendment Regulations (No 2) 2020. This initial fee was based on an existing fee specified in the Overseas Investment Regulations 2005 (fee code 28).

At the time the initial fee was approved, the Overseas Investment Office had no experience of operating the new assessment process. There was also uncertainty about the volume of transactions which would require a national interest assessment, and the administrative processes to be undertaken.

The Overseas Investment Office has subsequently recorded its experiences of operating the national interest assessment process, and has developed a revised cost model. This model shows that a higher fee is required to recover the costs of operating the national interest assessment process.

6 Proposals for new and updated Overseas Investment fees

The three options for Overseas Investment fees set out in this table are drawn from [Section Four](#).

Notes: The application category descriptions are listed according to the size of current fees (apart from the One Home to Live In pathway, where the most commonly applied fee is stated first).

The additional fee for a national interest assessment was applied from 14 July 2020 following approval of the Overseas Investment Amendment Regulations (No 2) 2020.

Application Pathway	Application category descriptions	Fee code in the Overseas Investment Regulations 2005	Current fees (GST inclusive)	Option A Higher single application fees (GST inclusive)	Option B (preferred) New differentiated fee structure (GST inclusive)				Option C Fees and an hourly charge (GST inclusive)
					Lodgement fee (for quality assurance)	Standard application assessment fee	Complex application assessment fee	Monitoring compliance fee	Lodgement fee and standard fee plus monitoring fee, plus hourly charge for complexity
One Home to Live In (OHTLI)									
	Residential OHTLI - Individual	1a	\$2,040	\$2,040	\$2,040				\$2,040
	Residential OHTLI - Entity	1b	\$3,900	\$6,100	\$5,800				\$5,800
	Residential OHTLI – Condition Variation	1d	\$550	\$4,500	\$3,400				\$3,400
	Residential OHTLI – Conditions Waiver	1c	\$550	\$4,500	\$3,400				\$3,400
	Residential OHTLI and Otherwise Sensitive Land	2a and 2b	\$24,600 to \$31,600	\$11,500	0	\$8,100	\$23,200	\$8,800	\$16,900 + \$337/hr
	Residential OHTLI and Otherwise Sensitive Land – Conditions Waiver	2c	\$550	\$4,700	\$3,400				\$3,400
Residential and Otherwise Sensitive Land									
	Consent – Apartment Purchase	3a	\$2,040	\$2,040	\$2,040				\$2,040
	Purchase under Standing Consent	11b	\$13,000	\$15,800	0	\$11,900	\$25,000	\$4,900	\$16,800 + \$337/hr
	Exemption Certificate	5	\$27,600	\$20,400	\$14,200				\$14,200
	Incidental	7	\$34,100	\$33,700	\$13,300	\$16,800	\$35,900	\$4,900	\$35,000 + \$337/hr
	Increased Housing	3b	\$34,100	\$33,700	\$13,300	\$16,800	\$35,900	\$4,900	\$35,000 + \$337/hr
	More than one purpose	10	\$34,100	\$33,700	\$13,300	\$16,800	\$35,900	\$4,900	\$35,000 + \$337/hr
	Non-Residential use	6	\$34,100	\$33,700	\$13,300	\$16,800	\$35,900	\$4,900	\$35,000 + \$337/hr
	Standing Consent – Increased Housing, or Non-Residential use	11a	\$34,100	\$33,700	\$13,300	\$17,300	\$40,700	\$3,500	\$34,100 + \$337/hr

Non-Residential Sensitive Land									
	Overseas person, Intention to Reside	20a, 20b	\$22,500	\$50,400	\$13,300	\$29,100	\$79,500	\$4,900	\$47,300 + \$337/hr
	Other land pathway and Significant Business Assets	29	\$34,100	\$46,300	\$13,300	\$27,900	\$67,900	\$4,400	\$45,600 + \$337/hr
	Benefit to New Zealand test – delegated to the Regulator	8(a)(i), 8(b)(i), 21(a)R, 21(b)R	\$35,500 to \$41,500	\$67,500	\$13,300	\$45,900	\$114,600	\$13,300	\$72,500 + \$337/hr
	Benefit to New Zealand test – Ministerial consideration	8(a)(ii), 8(b)(ii), 21(a)M, 21(b)M	\$37,500 to \$43,500	\$85,400	\$13,300	\$56,100	\$157,600	\$14,600	\$84,000 + \$337/hr
	Benefit to NZ and Substantial & Identifiable benefits test – delegated to the Regulator	22(a)R, 22(b)R	\$35,500 to \$47,000	\$90,600	\$13,300	\$51,700	\$122,400	\$11,700	\$76,700 + \$337/hr
	Benefit to NZ and Substantial & Identifiable benefits test – Ministerial consideration	22(a)M, 22(b)M	\$37,500 to \$49,000	\$66,900	\$13,300	\$49,000	\$113,200	\$9,700	\$72,000 + \$337/hr
	Benefit to NZ or Benefit to NZ and Substantial & Identifiable benefits test and Significant Business Assets – delegated to the Regulator	28	\$52,000	\$99,400	\$13,300	\$53,400	\$119,800	\$9,000	\$75,700 + \$337/hr
	Benefit to NZ or Benefit to NZ and Substantial & Identifiable benefits test and Significant Business Assets – Ministerial consideration	28	\$54,000	\$64,700	\$13,300	\$49,000	\$111,900	\$5,100	\$67,400 + \$337/hr
Significant Business Assets									
	Consent (Business decision only)	25	\$32,000	\$57,200	\$13,300	\$22,100	\$70,000	\$3,400	\$38,800 + \$337/hr
Forestry									
	Purchase under a Standing Consent	16b	\$13,000	\$14,100	\$11,200				\$11,200
	Consent	15	\$34,100	\$35,100	\$13,300	\$17,500	\$43,800		\$30,900 + \$337/hr
	Special Benefits test and Standing Consent	16a	\$34,100	\$29,700	\$13,300	\$15,000	\$38,500	\$2,900	\$31,200 + \$337/hr
	Consent - profits à prendre (< \$1m)	17a	\$42,600	\$32,000	\$13,300	\$17,300	\$42,700	\$3,000	\$33,600 + \$337/hr
	Modified Benefits	14a, 14b	\$51,100	\$32,000	\$13,300	\$17,300	\$42,700	\$3,000	\$33,600 + \$337/hr
	Consent - profits à prendre (> \$1m)	17b	\$49,100	\$32,000	\$13,300	\$17,300	\$42,700	\$3,000	\$33,600 + \$337/hr
Fishing Quota									
	Consent	32	\$40,000	\$90,200	\$13,300	\$157,600		\$3,400	\$20,300 + \$337/hr

National Interest									
	National Interest	34a	\$52,000	\$83,700	\$83,700				n.a.
Variations and Exemptions									
	Monitoring	35b	\$560/hr	\$700	0	0	0	0	\$700
	Schedule 4	35a	\$560/hr	\$700	0	0	0	0	\$700
	Exemption	19,24,27,31,34	\$25,500 to \$40,000	\$73,300	0	\$37,100	\$97,100	0	\$37,100 + \$337/hr
	Transmission Estate exemption	13	\$25,500	\$3,200	\$3,200				\$3,200
	Variation – time extension	12,18,23,26,30,33	\$13,000	\$10,400	\$10,400				\$10,400
	Variation – other, including small change in business plan	12,18,23,26,30,33	\$13,000	\$28,600	0	\$23,000	\$54,400	0	\$23,000 + \$337/hr
	Variation – other, material change in business plan	12,18,23,26,30,33	\$13,000	\$34,700	0	\$32,400	\$85,100	0	\$32,400 + \$337/hr
General fees and penalties									
	Late filing fee	Section 52 of the Act	\$500	\$500	\$500				\$500
	Administrative Penalty fee		\$1,500	\$1,500	\$1,500				\$1,500
	Administrative Penalty fee		\$5,000	\$5,000	\$5,000				\$5,000
	Administrative Penalty fee		\$10,000	\$10,000	\$10,000				\$10,000
	Administrative Penalty fee		\$20,000	\$20,000	\$20,000				\$20,000
	Administrative Penalty fee		\$25,000	\$25,000	\$25,000				\$25,000

7 The impact of the proposals

The impact of the proposals on the Overseas Investment Office

The proposals in Section 6 set out three options for a new and updated Overseas Investment fee structure:

Option A: Higher single application fees

- One fee for each application to recover all costs, including quality assurance, application assessment, and monitoring compliance.

Option B: A new differentiated fee structure (preferred)

- Separate fees for lodgement (quality assurance), assessment fees for standard applications, assessment fees for complex applications, and a monitoring compliance fee.

Option C: A new fee structure including an hourly charge for complex applications

- Separate fees for lodgement (quality assurance), standard assessment fees, a monitoring compliance fee, and an hourly charge for applications which exceed a standard timeframe for assessment.

The following table sets out the expected total revenue impact from implementing the proposals for new and updated fees, according to the current application pathways. Based on the trend of applications for the first quarter of the 2020/21 financial year, the projected figures for revenue from 'residential and otherwise sensitive land' and 'fishing quota' applications are zero. The total fees revenue is projected to be \$8.56 million annually on the current forecast volume of applications (Table 4).

Table 4: Projected total revenue from the proposed new fee structure

Application Pathways	Projected total annual fees revenue (\$ million)
One Home to Live In (OHTLI)	0.45
Residential and Otherwise Sensitive Land	0
Non-Residential Sensitive Land	2.50
Significant Business Assets	1.00
Forestry	0.93
Fishing Quota	0
Variations and Exemptions	0.77
National interest assessments	2.91
Total (excluding GST)	8.56

Risks and unintended impacts for the Overseas Investment Office

Two risks to the proposed fee revenues are the possibility of legislative changes affecting the activities of the Overseas Investment Office, and the uncertainty around the volume of future applications.

Regarding legislative change, the Overseas Investment (Urgent Measures) Amendment Act 2020 introduced a new national interest test for some applications which meet the legislated criteria. The Overseas Investment Amendment Bill (No 3) proposes further reform to the overseas investment regulatory regime, including the introduction of statutory timeframes for application assessments.

Another risk is the impact of COVID-19 on overseas investment applications and Overseas Investment Office fee revenues. It is likely there will be a significant financial impact from reduced application volumes in 2020/21.

A potential unintended impact of the proposed differentiated fee structure is that it may incentivise some risk-averse behaviour, by the Overseas Investment Office. This could result in a higher proportion of applications being classified as 'complex' (applying a higher fee to recover expected costs). This risk would be reduced through published guidance on the operational criteria for classifying applications and internal business rules.

The impact of the proposals on people who pay the fees

One Home to Live In (OHTLI)

The gross value^[1] of OHTLI approved investments in the 2019/20 financial year was \$210 million. Gross rather than net value is used because these are the figures declared to the Overseas Investment Office by overseas purchasers of residential properties.

The fees are not expected to have a significant financial impact on OHTLI applicants. In the most common cases of consent for an individual to purchase a house, the proposed (and current) fee of \$2,040 (GST inclusive) represents about 0.3 percent of the late 2020 median house price of \$600,000 across New Zealand (excluding Auckland), and 0.2 percent of the median house price in Auckland of \$1,000,000^[2].

Residential Land Development

The net value of residential land development approved investments in the 2019/20 financial year was \$417 million. The proposed new and increased fees are not expected to have a significant financial impact on the applicants seeking to purchase residential land. This view is based on the rising price of significant parcels of residential land (as shown by property sale prices). The median sale price for residential properties in New Zealand rose from \$410,000 in July 2014 to \$530,000 in June 2019^[3].

Non-Residential Land

The net value of non-residential sensitive land approved investments (assessed under the Benefit to New Zealand and Intention to Reside pathways) was \$907 million in the 2019/20 financial year. The proposed new and increased fees are not expected to have a significant financial impact on the majority of applicants seeking to purchase non-residential sensitive land.

Significant Business Assets

The net value of significant business assets approved investments was (-\$238) million in the 2019/20 financial year, and the gross value of approved investments was \$10 billion. The difference between the (negative) net value and the positive gross value reflects a net change in New Zealand ownership of the assets consented for purchase.

^[1] "Gross value of consideration" represents the total consideration including GST (if any) to be paid for the acquisition of the assets, or the value attributed to those assets, under consents granted during the relevant period

^[2] Source: Real Estate Institute of New Zealand, 12 November 2020 (www.reinz.co.nz)

^[3] Source: Data Insight information published on <https://figure.nz>

The proposed new and increased fees are not expected to have any significant financial impact on the applicants seeking to purchase significant business assets worth over NZ\$100 million.

Forestry

The proposed new and increased fees are not expected to have any significant financial impact on the applicants seeking to purchase forestry assets. This view is based on the net value of \$178 million for forestry assets consented for purchase during the 2019/20 financial year.

Fishing Quota

The proposed new and increased fees are not expected to have any significant financial impact on most applicants seeking to purchase fishing quota. This view is based on the value of fishing quota reported by [Fisheries New Zealand](#), which was \$3.15 billion as at 30 September 2007. FishServe publishes up-to-date information on the quota owned by stock and [quota transfer prices](#).

For the fishing quota assets application pathway, the amended fees are not expected to result in the Overseas Investment Office recovering any additional revenue, based on a full 12-month volume of applications. This assumption is based on the very low number of applications to purchase fishing quota.

Lodgement fees

The introduction of lodgement fees for applications (excluding OHTLI applications) is not expected to have a material or significant impact on applicants. This is because the lodgement fee (i.e. \$13,300 including GST) will be a very small proportion of the net value of most transactions, particularly transactions for significant business assets over NZ\$100 million.

Monitoring compliance fees

The introduction of fees for monitoring compliance with consent conditions (excluding OHTLI applications) are not expected to have a material or significant impact on applicants. This is because the monitoring compliance fee (\$2,900 to \$14,600, including GST) will be a very small proportion of the net value of most transactions.

National interest assessment fee

The proposed increased fee for a national interest assessment is not expected to have any significant financial impact on the applicants whose applications are subject to such an assessment. This view is based on experience to date where applicants are seeking to purchase significant business assets worth over NZ\$100 million.

Risks and unintended impacts on people who pay the fees

The proposed differentiated fee structure (and increased fees) may discourage potential investors from lodging applications for transactions, particularly if these are considered likely to be complex. This risk would be mitigated by publishing guidance on the operational criteria for classifying applications, and information and education activities targeted to investor groups.

As a result of the new differentiated fee structure, more prospective investors may choose to engage with the Overseas Investment Office at an earlier stage of planning their transaction, to determine the likely level of assessment. The Overseas Investment Office encourages early contact, and no fee is charged for an initial pre-assessment meeting. This practice will continue.

Another risk is that New Zealand's overseas investment regime may be viewed as costlier to comply with than the systems in place in other countries (see Appendix 4). Although not directly comparable, this risk can be mitigated by noting that total fees for standard applications would still be less than the maximum comparable fees applied by the United Kingdom and the USA.

A potential unintended impact is that more investors may choose not to comply with the overseas investment regime in undertaking transactions to purchase New Zealand assets. This risk would be managed through the enforcement activity undertaken by the Overseas Investment Office, which is Crown-funded and so not reliant on application volumes.

8 Questions for stakeholders

We encourage you to make your submissions using the [template available on the LINZ website](#). Please include the following information in your submission:

- The title of this discussion document
- Your name and title
- Your organisation's name (if you are submitting on behalf of an organisation)
- Your contact details (phone number, address, and/or email).

Providing a submission is optional and is not a legal requirement. You do not need to respond to all proposals – only those you have an interest in, or view on.

Submission questions

- 1 What is your view on the preferred proposal for third-party funding of the overseas investment regime (i.e. updated fees charged to overseas persons)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	Disagree	No opinion

What are the reasons for your view?

Do you have a preferred alternative?

- 2 Which option do you prefer for the fee structure proposed to be applied to recover the costs of the Overseas Investment Office? (See Section 6)

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Option A: Higher single fees structure	Option B: New fee structure with a lodgement fee, a standard or complex application fee, and a monitoring compliance fee.	Option C: Lodgement fee and standard application fee and monitoring compliance fee, plus hourly charges for complexity

What are the reasons for your view?

Do you have a preferred alternative?

- 3 What is your view on the proposal to introduce a lodgement fee for the quality assurance of applications for residential land, sensitive land, significant business assets, forestry and fishing quota?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	Disagree	No opinion

What are the reasons for your view?

Do you have a preferred alternative?

- 4 What is your view on the proposal to introduce a monitoring compliance fee for new approved applications for residential land, sensitive land, significant business assets, forestry and fishing quota transactions?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	Disagree	No opinion

What are the reasons for your view?

Do you have a preferred alternative?

- 5 What is your view on the proposal to maintain the fees for One Home to Live In individual consents?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	Disagree	No opinion

What are the reasons for your view?

Do you have a preferred alternative?

- 6 What is your view on the proposal to adjust the relevant application fees for residential and otherwise sensitive land consents, to introduce standard and complex fees for applications?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	Disagree	No opinion

What are the reasons for your view?

Do you have a preferred alternative?

- 7 What is your view on the proposal to increase the fees for non-residential sensitive land applications, to introduce standard and complex fees for applications?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	Disagree	No opinion

What are the reasons for your view?

Do you have a preferred alternative?

- 8 What is your view on the proposal to increase the fees for significant business asset, forestry, and fishing quota applications, to introduce standard and complex fees for applications?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agree	Disagree	No opinion

What are the reasons for your view?

Do you have a preferred alternative?

- 9 Do you have a view on the impact the proposed new and increased fees could have on you, or your business?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Negative impact	No impact	Positive impact	Don't know

- 10 Can you please describe any impacts and quantify these if possible (for example, in respect of cost)?

- 11 Do you have evidence that the proposed new and increased fees may have a deterrent effect on prospective overseas investors?

Appendix 1: Overview of the Overseas Investment Regulatory System

Supporting investment in New Zealand

Overseas investment in New Zealand's commercial sector, primary industries, and new residential building, can contribute directly to the growth and improvement of physical and financial capital.

Overseas investment makes a substantial contribution to New Zealand's economy. Statistics New Zealand business demography statistics report that as at February 2020, there were 11,490 enterprises operating in New Zealand with some overseas equity (2 percent of all 557,685 enterprises), and these firms employed around 514,600 people (22 percent of the total 2,317,300 employee count). Economic analysis has found a positive effect on wages from foreign ownership, although there is little evidence of substantial positive spill-over effects from foreign direct investment to local firms' productivity².

Most enterprises with overseas equity operate in the finance and insurance services industry. The [stock](#) of foreign direct investment (FDI) in New Zealand was \$121 billion at 31 March 2020, a 6 percent rise from 2019 (Statistics NZ).

There are regular public concerns raised in respect of the 'social licence to invest' by overseas investors in sensitive areas of the New Zealand economy, e.g. including sensitive land (such as farmland), existing residential property, and commercial and infrastructure assets viewed as important to the national interest.

During the 2019/20 financial year (from 1 July 2019 to 30 June 2020) the Overseas Investment Office approved consents for investments worth \$1.25 billion (net). The Overseas Investment Office operational costs (excluding Crown funding) of \$10.59 million for the 2019/20 financial year amounted to about 0.8 percent of the \$1.25 billion net value of approved overseas investments during the 2019/20 calendar year³.

² Foreign Acquisition and the Performance of New Zealand Firms (WP 11/06). New Zealand Treasury Working Paper. The results suggest that foreign firms tend to target high-performing New Zealand companies. Acquired firms then exhibit higher growth in average wages and output, relative to similar domestic firms, but do not appear in general to increase their productivity or capital intensity [Fabling, R. and Sanderson, L. (2011)]

Doan, Tinh, David Maré & Kris Iyer. 2015. "Productivity spillovers from foreign direct investment in New Zealand". New Zealand Economic Papers, Volume 49, Issue 3.

³ "Net investment dollars" represent the total dollar value invested in New Zealand. For example, if a New Zealander sells a \$100 million business to an Australian then the whole \$100 million is added to the net investment total. However, if for instance the New Zealand asset was 100% Japanese owned, then \$0 would be added to the net investment total. The net change in ownership of New Zealand assets is captured in the "total" net investment figure.

Legislative settings

Investment in sensitive New Zealand assets is managed through the Overseas Investment Act 2005 and its associated regulations.

The Minister of Finance is responsible for the Act. The Minister of Finance has designated the Chief Executive of Land Information New Zealand (LINZ) as the regulator under the Act.

LINZ operates the Overseas Investment Office to carry out the regulator's functions under the Act. The Overseas Investment Office administers the Overseas Investment regulations and administers sections 56 to 57J of the Fisheries Act 1996.

Under the Overseas Investment Act, the Overseas Investment Office:

- assesses applications to acquire sensitive New Zealand assets including sensitive land (most farmland, forestry land, and houses), high value business assets, and fishing quota
- monitors and gathers intelligence on potential overseas investors, applicants, and those who have been given permission to buy, lease or invest in sensitive New Zealand assets
- carries out enforcement actions to uphold the provisions of the Act and conditions of consent.

The parties who meet the definition of an Overseas Person under the Act and who need consent:

- generally, are not New Zealand citizens or are people who do not ordinarily live here.
- are bodies, such as companies, trusts and joint ventures, with more than 25 percent overseas ownership or control.
- can include associates (including New Zealanders) of overseas investors.

The monitoring and enforcement activities of the Overseas Investment Office seek to ensure that the provisions of the Act are complied with, including that overseas investors:

- submit applications before investing
- comply with any conditions that come with consent, to ensure the expected benefits of the investment occur.

Sections 23 and 27 of the Act require applicants to pay fees when lodging applications. Section 61 of the Act allows for fees to be set in regulations. Regulations 33 and 34, and Schedule 2 of the Overseas Investment Regulations 2005 set out the existing application fees.

From 22 October 2018, extensive changes to the Act in respect of overseas investment in residential housing and forestry were put into effect (the 'Phase One' reform).

On 19 November 2019, a further series of changes to the Act were proposed by the Government, following work lead by the Treasury (the 'Phase Two' reform). The Overseas Investment Amendment Bill (No 3) was subsequently introduced for consideration by Parliament.

On 28 May 2020, Parliament passed the Urgent Measures Act which was part of the Government's economic response to the COVID-19 pandemic, and the pandemic's impact on the foreign investment risk environment. With the passing of the Urgent Measures Act, the Government is better placed to manage the escalating security and economic risks caused by the COVID-19 pandemic and to protect domestic living standards in the long term.

The Urgent Measures Act introduced the following key changes to the Overseas Investment Act 2005:

- A new temporary notification scheme requires investors to tell the Overseas Investment Office about investments in more than 25% of a New Zealand business or more than 25% of a New Zealand business' assets. Increases to existing shareholdings beyond 50% or 75% or to 100% must also be notified. This temporary scheme will be reviewed every 90 days.
- A separate national interest assessment has also been introduced for some transactions that are already screened under the Act. This assessment is to ensure that investment in strategically important assets is in line with New Zealand's national interests.
- The existing rules have been simplified so that some low risk transactions no longer need consent. These changes especially help listed companies and investments that adjoin sensitive land.
- The Overseas Investment Office has been given stronger enforcement powers to act against investors who do not follow the law. The focus is to ensure that promises made by investors to produce benefits to New Zealand are realised.

In the case of substantially New Zealand firms, the changes in the Urgent Measures Act introduced an automatic standing consent. This is expected to substantially reduce the overall fees paid by these firms for applications to purchase additional land as they will no longer require consent for the majority of their transactions.

Monitoring and review

The Overseas Investment Office recognises that performance reporting is a critical component of providing transparency to investors and other interested parties, as well as encouraging ongoing system efficiency.

The Overseas Investment Office publishes a series of trend metrics on performance, including:

- regular updates on the numbers and value of applications and decisions
- percentage of applications returned at quality assurance
- timeframes for application assessment
- decision summaries
- The results of investigation and enforcement actions.

The impact of fees on applicants is indicated by responses to a regular email survey of applicant experiences in dealing with the Overseas Investment Office. These responses are not published.

Application pathways

The Overseas Investment Office administers differing pathways depending on the asset type which overseas persons apply for permission to purchase. Applications for these asset types are then assessed according to the pathways for applications that are stated in the Regulations (Table 5).

The Overseas Investment Regulations 2005 also specify the relevant fees that must be paid by applicants seeking consent for their transactions (see Appendix 4).

Table 5: Application pathways administered by the Overseas Investment Office

Asset type	Application pathway	Applications during the 2019/20 financial year*
Residential	Residential property to inhabit (One Home to Live In)	247
	Residential property to inhabit (with special land)	2
	Apartments purchased off the plans	0
	Increasing housing supply	5
	Using for non-residential purposes	3
	Land used incidentally for residential purposes	1
	Residential development standing consent	4
Sensitive Land	Benefit to New Zealand	70
	Intention to reside	1
Significant Business Asset	Significant Business Assets	23
Forestry	Special forestry test	31
	Standing forestry consent (Ministerial)	2
Fishing quota	Individual Transferable Quota (ITQ), or Annual Catch Entitlement (ACE)	1
Total		451

*excluding variations and exemption certificates.

The trend of applications

In recent years the Overseas Investment Office has recorded a declining total number of applications, until the implementation of the 2018 legislative reform to the Overseas Investment Act 2005. Total applications reduced from 168 in the 2014/15 financial year to 153 in 2017/18, before increasing to 409 in 2018/19 and 451 in 2019/20 (Figure 10).

The increase in 2018/19 was due to the new application pathways of One Home to Live In, Forestry, and Residential Land Development. There was also a marked rise in exemptions, reflecting the permitted time for existing applicants to adjust to the introduction of the new pathways.

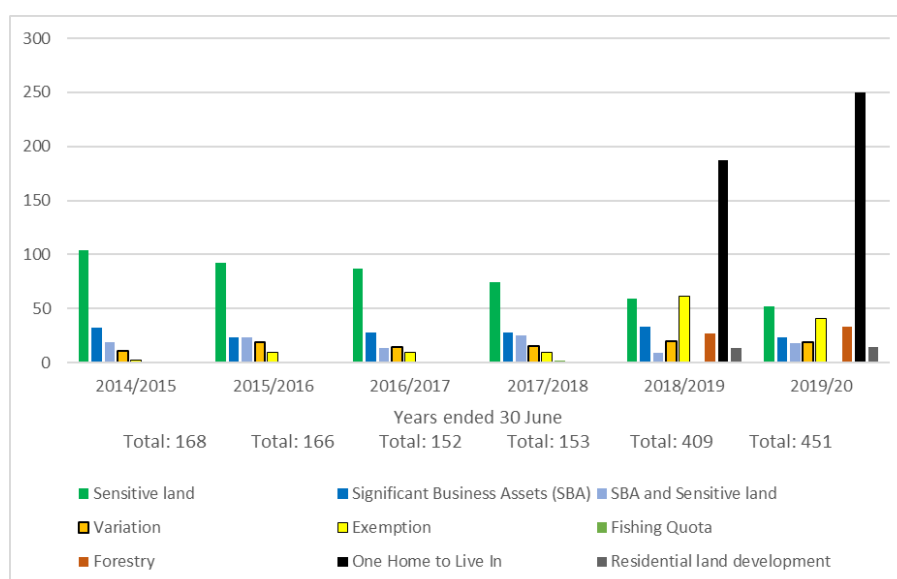


Figure 10: Trend of accepted applications, 2014/15 to 2019/20

LINZ has assumed the potential impact of COVID-19 on application volumes for the 2020/21 financial year. This assumption is based on experience of the first quarter of the 2020/21 year and the likelihood that restrictions on international travel prevent prospective investors from directly inspecting New Zealand assets, resulting in reduced application volumes.

For the full year 2020/21, LINZ has assumed a total of 372 applications (an overall 18 percent decline from 2019/20), made up of 232 'One Home to Live In' applications and 140 other applications. LINZ has also assumed a total of 40 national interest assessments for selected applications in 2020/21.

Size of the Overseas Investment Office

The Overseas Investment Office currently employs 47 staff, primarily advisors, solicitors and investigators. Staff work in the following teams:

- Applications A (9 FTEs)
- Applications B (8 FTEs)
- Commitment to Reside Applications (5 FTEs)
- Enforcement (10 FTEs)
- Monitoring and Intelligence (7 FTEs)
- Residential and Forestry (8 FTEs)

Third-party funding trends (fee revenues and costs)

LINZ operates a memorandum account for the Overseas Investment Office, which is an accumulation of the annual surpluses or deficits from operations. Figure 11 outlines the trend of Overseas Investment Office income and expenses from the 2014/15 to 2019/20 financial years.

For the year ended 30 June 2020 the Overseas Investment Office operating deficit (excluding Crown funding for monitoring and enforcement) was \$3.35 million, down from a deficit of \$3.83 million for the year ended 30 June 2019.

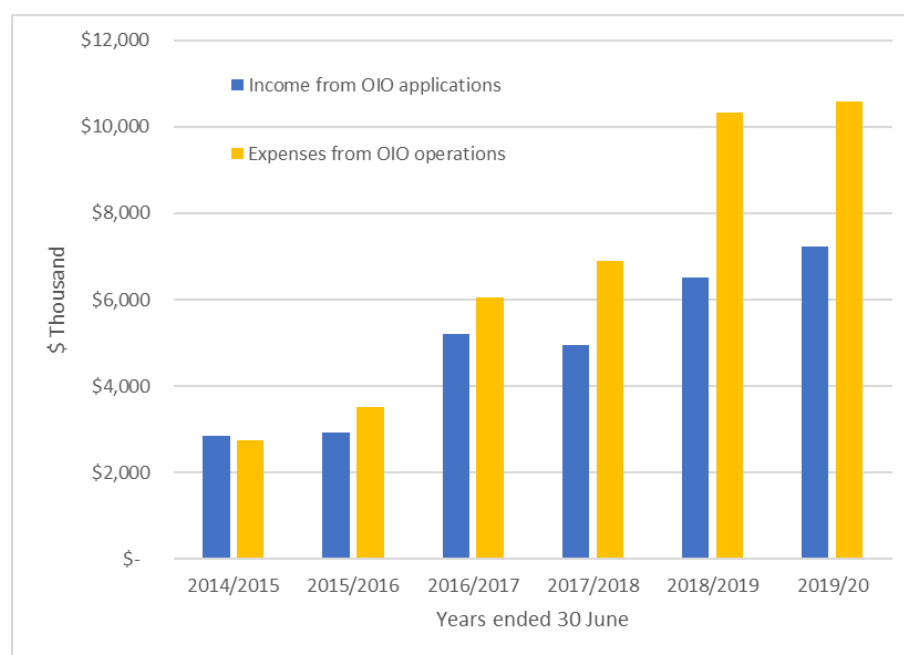


Figure 11: Trend in the Overseas Investment Office income and expenses, 2014/15 to 2019/20

In Budget 2020, LINZ received a non-repayable capital injection of \$3 million for the portion of the Overseas Investment Office memorandum account deficit that related to the costs of implementing the 2018 reform. LINZ also received a repayable capital injection of \$7 million for funding purposes until revised fees to fully recover costs have been fully implemented.

The Overseas Investment Office operates three regimes that all reported differing revenues for the year ended 30 June 2020 (Table 6).

- 'Administering the overseas investment regime' reported a 1.8 percent increase in fees revenue (from \$4.296 million in 2018/19 to \$4.372 million in 2019/20), and a net deficit of \$1.830 million.
- 'Administering the residential property regime' reported a 20 percent increase in fees revenue (from \$1.620 million in 2018/19 to \$1.948 million in 2019/20), and a net deficit of \$0.884 million

- 'Monitoring and enforcement of the overseas investment regime' reported \$5.687 million in Crown revenue, \$0.921 million in allocated fee revenue, and a net surplus of \$1.808 million.

Table 6: Revenue of the Overseas Investment Office regimes, 2018/19 and 2019/20

Administering the overseas investment regime Multi-category appropriation		
Actual 2019 \$000		Actual 2020 \$000
3,485	Revenue Crown	5,687
6,510	Revenue other	7,241
9,995	Total revenue	12,928
11,953	Total expenses	13,834
(1,958)	Net surplus/(deficit)	(906)

Administering the overseas investment regime (other than residential)		
Actual 2019 \$000		Actual 2020 \$000
-	Revenue Crown	-
4,296	Revenue other	4,372
4,296	Total revenue	4,372
5,733	Total expenses	6,202
(1,437)	Net surplus/(deficit)	(1,830)

Administering the residential property regime		
Actual 2019 \$000		Actual 2020 \$000
-	Revenue Crown	-
1,620	Revenue other	1,948
1,620	Total revenue	1,948
3,246	Total expenses	2,832
(1,626)	Net surplus/(deficit)	(884)

Monitoring and enforcement of the overseas investment regime		
Actual 2019 \$000		Actual 2020 \$000
3,485	Revenue Crown	5,687
594	Revenue other	921
4,079	Total revenue	6,608
2,974	Total expenses	4,800
1,105	Net surplus/(deficit)	1,808

Source: LINZ Annual Report 2019/20

Appendix 2: Comparison with similar Government agencies

LINZ compared the funding system and fee structure authorised by the Overseas Investment Regulations 2005, to those operated by government agencies which have a similar regulatory role to the Overseas Investment Office. This comparison guided the development of updated fee options for the Overseas Investment Office.

LINZ applied the following criteria in identifying similar regulators to the Overseas Investment Office:

- *Similar regulatory functions* (i.e. education/information, application/certification processing, monitoring and intelligence, and enforcement of regulations)
- *Specific commercial interest in the regulatory functions* (i.e. extent to which the regulator deals with significant commercial entities which commission legal advice and representation)
- *Third-party funding for the regulator* (i.e. whether through fees, levies, and/or Crown appropriations)
- *International linkages & extraterritoriality* (i.e. extent to which the regulator deals with entities which have a significant international exposure and/or ownership, as this introduces additional complexities into the payment system).

This assessment lead to the selection of the Financial Markets Authority (FMA), the Commerce Commission (ComCom) and the Environmental Protection Authority (EPA) as being the most comparable regulatory agencies. The Office of the Ombudsman also has similar regulatory functions, but is not funded through fees.

All of these comparable regulators are larger than the Overseas Investment Office (in terms of total revenue, costs, and staffing), and receive a greater proportion of their revenues from Crown funding.

Financial Markets Authority

For the year ended 30 June 2020 the Financial Markets Authority (FMA) reported \$40.2 million in total revenue. Of the total revenue, 90 percent was received from a Government grant of \$36.0 million. Much of the grant is recovered from industry participants through the Financial Markets Authority levy. Most of these levies are collected by the Companies Office with some collected by the FMA itself (Financial Markets Authority (Levies) Regulations 2012).

The FMA also received \$2.0 million in other revenue, including from audit quality review fees and licence fees. Revenue for licence fees comprises application fees and hours

charged for additional work performed. In this respect the FMA operates a different fees model to that currently applied by the Overseas Investment Office.

Financial Markets Authority licences

Fees for FMA licences are specified in the Financial Markets Conduct (Fees) Regulations 2014. The fees adopt different fixed base charges for different types of application, and then an hourly charge for any hours spent more than a specified number of hours, provided the FMA has notified the applicant that hourly rates will be payable and the reason for that.

Different fixed base charges

The Financial Markets Conduct (Fees) Regulations 2014 specify different fixed base fees payable to the FMA for a range of regulatory services including licences; variations to licences and exemptions from licences. For example, fixed licence fees range from \$2,139 for an independent trustee of a restricted scheme to \$10,695 for a derivatives issuer.

The fixed base charge is based on fixed capital and overhead costs and a set number of hours to process the application. For example, a derivatives issuer licence is estimated to take 70 hours on average to process, whereas the estimated average for an independent trustee is 15 hours.

Additional variable hourly charges

The Financial Markets Conduct (Fees) Regulations 2014 specify that additional fees are based on a range of variable hourly rates and may be charged where the application process exceeds a stated number of hours. Prescribed hourly rates range from \$178 per hour to \$230 per hour for qualified FMA employees who have skills, training or experience in financial markets.

The stated number of hours used to define the threshold at which additional variable hourly charges can commence is based on a statistical calculation of the standard deviation from the average time to assess and administer an application. This is the point that demarcates the normal from the complex application.

FMA notification

The Financial Markets Conduct (Fees) Regulations 2014 also specify that the hourly fee is payable only if the FMA has notified the applicant in writing that the hourly fee will or may be payable; and given the reasons why the number of hours spent on the application has exceeded or is likely to exceed the specified number. The regulations state that fees charged are payable on the issue of an FMA invoice.

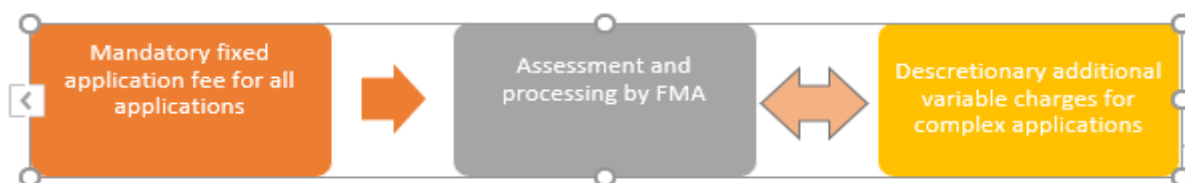


Figure 12: Financial Markets Authority licences fee structure

Commerce Commission

For the year ended 30 June 2020 the Commerce Commission (ComCom) received total revenue of \$53.7 million. The largest contribution was from the Crown, which accounted for 97% of total revenue. The Crown-sourced revenue was through a combination of general taxes (60% of total revenue) and industry levies (37% of total revenue).

In addition to the Crown-sourced revenue, ComCom received revenue from third-party application fees, interest revenue, cost awards from successful litigation cases, and cost recoveries for shared corporate services with other state sector agencies.

ComCom charges application fees to businesses seeking clearances and authorisations:

- Merger clearance assessment fee is \$3,680 (GST inclusive)
- Authorisation assessment fee is \$36,800 (GST inclusive).

Environmental Protection Authority

For the year ended 30 June 2020 the Environmental Protection Authority (EPA) [reported](#) \$28.6 million in total revenue, of which \$27.4 million was from Crown funding. The EPA is funded through a mix of Crown funding and third-party revenue. Crown funding is provided through three appropriations in Vote Environment.

Third-party revenue was provided primarily through fees and charges, which contributed a total of \$1.9 million in 2019/20 (down from \$2.6 million in 2018/19). [EPA fees and charges](#) primarily contributed to the EPA decision-making functions. The four main classes of fees charged by the EPA were:

- Resource Management Act cost recovery fees (total revenue of \$0.13 million)
- Exclusive Economic Zone cost recovery fees (total revenue of \$1.10 million)
- Hazardous substances application fees (total revenue of \$0.56 million)
- New organisms application fees (total revenue of \$0.07 million).

Exclusive Economic Zone activities

The hourly rates the EPA charge are set out in the Exclusive Economic Zone and Continental Shelf (Fees and Charges) Regulations 2013.

Charge-out rates for EPA staff

Assessing applications

	Hourly rate (\$NZ, excl. GST)
Principal Technical Advisor	290.00
Project Leader	140.80
Senior Advisor	116.12
Advisor	103.75
Administrator	97.43

Compliance monitoring

	Hourly rate (\$NZ, excl. GST)
Principal Technical Advisor	232.00
Project Leader	112.64
Senior Advisor	92.90
Advisor	83.00
Administrator	77.94

Office of the Ombudsman

The Office of the Ombudsman funding comes from the Crown, amounting to total revenue of \$23.9 million in the year ended 30 June 2020. The Office does not charge fees to members of the public who lodge complaints or request assistance (as stated in [the Annual Report for 2019/20](#)).

Appendix 3: Comparison with similar overseas regulatory systems

New Zealand's third-party funding system for the overseas investment regulatory regime can be compared with the funding systems in place in other Western nations with comparable regimes and legal systems.

On 5 June 2020 the Australian Treasury released the document [Foreign investment reforms](#) which explained the rationale for the urgent reforms to the overseas investment regimes made by a series of countries, including New Zealand.

Australia

Australia's [Foreign Investment Review Board \(FIRB\)](#) the Treasury's Foreign Investment Division, and the Australian Taxation Office receive extensive third-party funding through application fees. The total operational cost of these three functions was A\$15.2 million for the year ended 30 June 2019. Total foreign investment application fee collections amounted to A\$94 million for the year ended 30 June 2019, down from A\$114 million in the year ended 30 June 2018⁴. A [revised fee structure](#) came into effect on 1 January 2021.

The FIRB charges a wide range of fees for specific types of application, depending on the value of the transaction. An online [fee estimator](#) provides fee estimates for the different types of foreign investment applications. The FIRB practice of differentiation by value produces different fees to those applied in New Zealand, for example:

Application category ⁵	Australia (FIRB) fees (A\$) from 1 January 2021	New Zealand current fees (NZ\$)	New Zealand <i>proposed</i> (standard) total fee (NZ\$)	New Zealand <i>proposed</i> (complex) total fee (NZ\$)
Residential purchase	\$6,350 (minimum) \$500,000 (maximum)	\$2,040	\$2,040	\$2,040
Significant Business Assets	\$6,350 (\$50m or less) \$500,000 (\$2bn and above)	\$32,000	\$38,800	\$86,700
Sensitive (agricultural) land	\$6,350 (\$2m or less) \$500,000 (\$80m and above)	\$41,500	\$72,500	\$141,200

⁴ Table 3.18, page 42 of the FIRB Annual Report for the year ended 30 June 2019

⁵ The updated fees for Australia exclude fees for a national security action. The current and proposed fees for New Zealand exclude a national interest assessment.

Canada

The Canadian government's foreign investment policy is administered by the Investment Review Division of Innovation, Science and Economic Development Canada. The Investment Canada Regulations do not specify particular fees for applications for acquisitions and investments.

United Kingdom

Provisions which came into force on 11 June 2018 introduced lower merger control thresholds for transactions in certain sectors. These revised thresholds are designed to provide the UK Government with increased scope to scrutinise foreign investments and transactions that raise national security concerns.

The changes were accompanied by guidance from the UK Competition and Markets Authority (CMA) and the Department for Business, Energy and Industrial Strategy (BEIS) on how they expect the regime to operate in practice.

The CMA guidance of 11 June 2018 refers to the fees payable. There are standard fees depending on the value of the UK turnover of the enterprises being acquired, as follows:

Fee	Charge band
£40,000	Value of the UK turnover of the enterprises being acquired is £20 million or less
£80,000	Value of the UK turnover of the enterprises being acquired is over £20 million but not over £70 million
£120,000	Value of the UK turnover of the enterprises being acquired exceeds £70 million, but does not exceed £120 million
£160,000	Value of the UK turnover of the enterprises being acquired exceeds £120 million

United States of America

The Committee on Foreign Investment in the United States (CFIUS) is an interagency body administered within the US Department of the Treasury.

On 13 January 2020, the Department of the Treasury released two final regulations to implement the changes that the *Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA)* made to CFIUS's jurisdiction and processes, including in respect of filing fees

(the full language of FIRRMA and related information can be found on the [CFIUS Laws and Guidance](#) page).

Except as otherwise provided, the parties filing a formal written notice of a transaction with CFIUS under § 800.501(a) on or after 1 May 2020, shall pay a filing fee as follows:

- (a) Where the value of the transaction is less than \$500,000: No fee
- (b) Where the value of the transaction is equal to or greater than \$500,000 but less than \$5,000,000: \$750
- (c) Where the value of the transaction is equal to or greater than \$5,000,000 but less than \$50,000,000: \$7,500
- (d) Where the value of the transaction is equal to or greater than \$50,000,000 but less than \$250,000,000: \$75,000
- (e) Where the value of the transaction is equal to or greater than \$250,000,000 but less than \$750,000,000: \$150,000
- (f) Where the value of the transaction is equal to or greater than \$750,000,000: \$300,000.

Appendix 4: Overseas Investment Regulations 2005 - Schedule 2 Fees and charges

Schedule 2: replaced, on 22 October 2018, by [regulation 20](#) of the Overseas Investment Amendment Regulations 2018 (LI 2018/154). Fees and charges include Goods and Services Tax (GST).

Part 1 Applications relating to transaction in category of overseas investment in sensitive land only — residential land

The fees in this Part apply to transactions that will result in an overseas investment in sensitive land only, where all of the relevant land is residential land.

Application	(\$)
For consent for a transaction involving a land decision only, on the basis of section 16(1)(b)(i)(A) of the Act (the commitment to reside in New Zealand test), where the land is residential (but not otherwise sensitive) land—	
1 (a) if the applicant is 1 or more individuals	2,040
(b) if the applicant is a company, trust, or limited partnership or any person other than 1 or more individuals	3,900
(c) if the application is for a waiver relating to a trigger event under clause 8 of Schedule 2 of the Act	550
(d) if the application is for a variation of the consent or a condition of the consent	550
For consent for a transaction involving a land decision only, on the basis of section 16(1)(d)(i) of the Act (the commitment to reside in New Zealand test), where the land is both residential and otherwise sensitive land—	
2 (a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million	24,600
(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application	31,600
(c) if the application is for a waiver relating to a trigger event under clause 8 of Schedule 2 of the Act	550
3 For consent for a transaction involving a land decision only, on the basis of section 16(1)(b)(i)(B) of the Act (the increased housing test),—	
(a) if the investor test does not apply to the overseas investment because circumstance 2 in section 16(3)(b) applies	2,040
(b) if the investor test does apply to the overseas investment	34,100
4 For each exemption certificate under clause 6 of Schedule 1AA of the Act (exemption relating to dwellings in large apartment developments where sales of dwellings have begun before assent date),—	

	Application	(\$)
	(a) on application to grant an exemption certificate	25,500
	(b) on application to vary an exemption certificate	13,000
5	For each exemption certificate under clause 4(2) of Schedule 3 (dwellings in large apartment developments that are purchased off plans)	27,600
6	For consent for a transaction involving a land decision only, on the basis of section 16(1)(b)(i)(C) of the Act (the non-residential use test)	34,100
7	For consent for a transaction involving a land decision only, on the basis of section 16(1)(b)(i)(D) of the Act (the incidental residential use test)	34,100
8	For consent for a transaction involving a land decision only, on the basis of section 16(1)(b)(ii) of the Act (the benefit to New Zealand test) and where section 16A(1)(b) is not applicable,—	
	(a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million,—	
	(i) where the determination is made by the relevant Ministers	37,500
	(ii) where the determination is made by the regulator under delegation	35,500
	(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application,—	
	(i) where the determination is made by the relevant Ministers	43,500
	(ii) where the determination is made by the regulator under delegation	41,500
9	For consent for a transaction involving a land decision only, on the basis of section 16(1)(b)(ii) of the Act (the benefit to New Zealand test) and where section 16A(1)(b) is applicable,—	
	(a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million,—	
	(i) where the determination is made by the relevant Ministers	42,500
	(ii) where the determination is made by the regulator under delegation	40,500
	(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application,—	
	(i) where the determination is made by the relevant Ministers	49,000
	(ii) where the determination is made by the regulator under delegation	47,000
10	For consent for a transaction involving a land decision only, on the basis of more than 1 of the circumstances in items 1 to 9 (for example, a transaction relying on both the increased housing test and the non-residential use test)	34,100
11	For a standing consent under clause 2 of Schedule 4 of the Act (increased housing test, non-residential use test, or incidental residential use test),—	
	(a) on application	34,100
	(b) for each transaction of which the regulator must be notified under a condition imposed under clause 2(3)(c) of Schedule 4 of the Act	13,000
12	For any other variation of consent or conditions of consent (including addition to and revocation of conditions of consent) referred to in this Part	13,000

Application	(\$)
13 For each exemption under section 61D of the Act (Minister may grant individual exemptions) in respect of residential land	25,500

Part 2 Applications relating to transaction in category of overseas investment in sensitive land only — forestry activities and *profits à prendre*

The fees in this Part apply to transactions that will result in an overseas investment in sensitive land only, where all of the relevant land is used exclusively or nearly exclusively for forestry activities, or all of the relevant land is a regulated *profit à prendre*.

Application	(\$)
14 For consent for a transaction involving a land decision only, on the basis that section 16A(3) of the Act be applied (the modified benefits test),—	
(a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million	44,600
(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application	51,100
15 For consent for a transaction involving a land decision only, on the basis that the application be considered in accordance with section 16A(4) of the Act (the special test relating to forestry activities)	34,100
16 For a standing consent under clause 3 of Schedule 4 of the Act (forestry activities)—	
(a) on application	34,100
(b) for each transaction of which the regulator must be notified under a condition imposed under clause 3(3)(c) of Schedule 4 of the Act	13,000
17 For consent for a transaction involving a land decision only, if the only interest in land described in section 12(a) is 1 or more regulated <i>profits à prendre</i> (other than forestry rights) on the basis that section 16A(1) of the Act be applied—	
(a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million	42,600
(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application	49,100
18 For variation of consent or conditions of consent (including addition to and revocation of conditions of consent) in respect of forestry activities or <i>profits à prendre</i>	13,000
19 For each exemption under section 61D of the Act (Minister may grant individual exemptions) in respect of forestry activities or <i>profits à prendre</i>	25,500

Part 3 Other applications relating to transaction in category of overseas investment in sensitive land only

The fees in this Part apply to transactions that will result in an overseas investment in sensitive land only, and to which [Parts 1](#) and [2](#) do not apply.

Application	Determination by relevant Ministers or by regulator under delegation	(\$)
20 For consent for a transaction involving a land decision only, on the basis of section 16(1)(c)(i) of the Act,—		
(a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million	Relevant Ministers or regulator	22,500
(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application	Relevant Ministers or regulator	29,500
21 For consent for a transaction involving a land decision only, on the basis of section 16(1)(c)(ii), (d)(ii), or (e) of the Act (the benefit to New Zealand test) and where section 16A(1)(b) is not applicable,—		
(a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million	Relevant Ministers Regulator	37,500 35,500
(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application	Relevant Ministers Regulator	43,500 41,500
22 For consent for a transaction involving a land decision only, on the basis of section 16(1)(c)(ii), (d)(ii), or (e) of the Act (the benefit to New Zealand test) and where section 16A(1)(b) is applicable,—		
(a) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is less than \$1 million	Relevant Ministers Regulator	42,500 40,500
(b) where the value of the consideration to be provided for the overseas investment in sensitive land is stated in the application and is \$1 million or more or is not stated in the application	Relevant Ministers Regulator	49,000 47,000
23 For variation of consent or conditions of consent (including addition to and revocation of conditions of consent)	Relevant Ministers or regulator	13,000
24 For each exemption under section 61D of the Act (Minister may grant individual exemptions)	Relevant Ministers or regulator	25,500

Part 4 Applications relating to transaction in category of overseas investment in significant business assets only

The fees in this Part apply to transactions that will result in an overseas investment in significant business assets only.

Application	(\$)
25 For consent for a transaction involving a business decision only	32,000
26 For variation of consent or conditions of consent (including addition to and revocation of conditions of consent)	13,000
27 For each exemption under section 61D of the Act (Minister may grant individual exemptions)	25,500

Part 5 Applications relating to transaction in categories of overseas investment in sensitive land and significant business assets only

The fees in this Part apply to transactions that will result in both an overseas investment in sensitive land and an overseas investment in significant business assets, but will not result in an overseas investment in fishing quota.

Application	Determination by relevant Ministers or by regulator under delegation	(\$)
28 For consent for a transaction involving a land decision on the basis of section 16(1)(b)(ii), (c)(ii), (d)(ii), or (e) of the Act (the benefit to New Zealand test) and a business decision	Relevant Ministers	54,000
	Regulator	52,000
29 For consent for a transaction involving any other land decision and a business decision	Relevant Ministers or regulator	34,100
30 For variation of consent or conditions of consent (including addition to and revocation of conditions of consent)	Relevant Ministers or regulator	13,000
31 For each exemption under section 61D of the Act (Minister may grant individual exemptions)	Relevant Ministers or regulator	25,500

Part 6 Applications relating to overseas investment in fishing quota

The fees in this Part apply to transactions that will result in an overseas investment in fishing quota, whether or not the transaction also results in an overseas investment in sensitive land or an overseas investment in significant business assets.

Application	(\$)
32 For consent for a transaction	40,000
33 For variation of consent or conditions of consent (including addition to and revocation of conditions of consent)	13,000
34 For each exemption under section 61D of the Act (Minister may grant individual exemptions)	40,000

Part 6A Applications relating to transaction of national interest

Schedule 2 Part 6A: inserted, on 28 July 2020, by [regulation 10](#) of the Overseas Investment Amendment Regulations (No 2) 2020 (LI 2020/162).

The fee in this Part applies to transactions of national interest. It is payable in addition to any fee for consent for the transaction set out in any other Part of this schedule.

Application	(\$)
34A For consent for a transaction of national interest	52,000

Part 7 Other applications

Application

For each exemption under [section 61D](#) of the Act (Minister may grant individual 35 exemptions) by addition to [Schedule 3](#) (which relates to portfolio investors) or [Schedule 4](#) (which relates to New Zealand controlled persons),—

(a) application for exemption	\$560 per hour
(b) monitoring compliance with conditions of exemption	\$560 per hour

Part 8 Information and services

Request

36 For provision of information or services	\$168 per hour
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