

# FOREIGN INVESTMENT AMENDMENT BILL 2010

## SAMOA

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2010 No.

A BILL INTITULED

FIAB 100804

AN ACT to amend the Foreign Investment Act 2000

BE IT ENACTED by the Legislative Assembly of Samoa  
in Parliament assembled as follows:

1. Short title and commencement ~~(1)~~ This Act may  
be cited as the Foreign Investment Amendment Act 2010.

(2) This Act commences on the date it is assented to by  
the Head of State.

2. Principal Act – (1) In this Act, unless the context  
otherwise requires “PrincipaAct” means the Foreign  
Investment Act 2000.

3. Interpretation – (1) In section 2(1) of the Principal  
Act, insert the following incorrect alphabetical order:

““Committee” means the Foreign Investment  
Advisory Committee established under  
section 6A;

“Investment Report” means the Annual Foreign  
Investment Report described in section 11A”.

(2) For section 2(2) of ~~th~~Principal Act substitute:

“(2) “Foreign investment” means the involvement  
of:

- (a) a non-citizen, including a foreigner  
who is granted permanent residence; or
- (b) a company or enterprise in which a  
foreign investor holds more than 10% of the  
total shares,

in any business or economic activity in Samoa for  
which a business licence is required by the Business  
Licences Act 1998.

PROVIDED THAT the provisions of this Act shall  
not apply to trustee companies licensed under the  
Trustee Companies Act 1987, international  
companies or foreign companies registered under the  
International Companies Act 1987, international  
insurance companies licensed under the International  
Insurance Act 1988 or international banks licensed  
under the International Banking Act 2005, or any  
successor legislation to the above Acts”; and

(3) After section 2(3) of the Principal Act insert:

“(3A) An applicant with dual citizenship who decides to use his or her foreign citizenship other than Samoan citizenship is required to register under section 8 of this Act.”;

4. Reserved List– (1) In subsections 3(1) and (3) of the Principal Act for every mention of “the Schedule” substitute “Schedule 1”.

(2) After section 3(3) of the Principal Act, insert:

“(4) The Reserved list in Schedule 1 may be reviewed and amended by regulations.”.

5. Restricted List– In section 4 of the Principal Act:  
(a) in subsection 1:

“6A. Foreign Investment Advisory Committee—



- international organizations in relation to areas in paragraph (a) and (b);
- (e) monitoring and enforcing compliance with requirements of this Act;
  - (f) coordinating or carrying out investigation relating to a foreign investment query or complaint;
  - (g) providing a Secretariat for the Private Sector Support Faci

(b) for paragraph (a)(i) substitute:

“(i) are not included in the Prohibited and Reserved Lists; or”

(3) In section 8(4) of the Principal Act, after “Commissioner for Inland Revenue” insert “, the Chief Executive Officer, the Attorney General or any other Ministry or agency”.

11. Insertion of new section –After section 8 of the Principal Act, insert:

“8A. Confidentiality – Information provided in an application shall be kept confidential and shall be used only for the purposes of this Act.”.

12. Duration of certificates – In section 9 of the Principal Act, for “two years if the Minister is satisfied that by that time the operations of the business have not commenced” substitute “not less than 2 years from the date of issue if, before that time lapses, the certificate holder has not communicated to the Chief Executive Officer reasons for the delay in the commencement of business.”.

- (2) Without limiting its form and content, the Investment Report shall include:
- (a) the number of foreign investment application received;
  - (b) the country of origin of applicants;
  - (c) the business or economic activity sectors for which applications were received, applications approved and certificates granted, and applications denied and reasons for denial of these applications;
  - (d) the sizes and types of investment;
  - (e) employment, import and export values, foreign exchange projections, effects and outcome; and
  - (f) detailed information and an analysis of the performance of business or economic activities or investment approved under this Act and foreign investments which are exempt from approval and certification under this Act, with a particular emphasis upon the effect of foreign investment on the economic development of Samoa.

(3) The Minister shall provide Cabinet with a copy of the Investment Report and shall make the Investment Report available for public inspection through the Chief Executive Officer.

(4) The Minister may publish and distribute copies of the Annual Foreign Investment Report through the Chief Executive Officer.”.

15. Cancellation of certificates –(1) In section 12 of the Principal Act, after the section title “Cancellation of certificates -” insert “-(1)”.

(2) In section 12(b) of the Principal Act, for “Restricted” substitute “Reserved”

(3) After section 12(d) of the Principal Act insert:

- “(e) The business has not commenced operation within two years from the date the certificate was issued; or
- (f) The business has ceased operations in Samoa; or





(6) The Ministry shall publish in the Savali or any other local newspaper a list of the certificates cancelled pursuant to this ~~sec~~ at the end of every 12 months.”

16. Regulations –In section 18(2)(h) of the Principal Act, for “must be made.” substitute “must be made;

(i) the service of notices made pursuant to this Act.”.

17. Insertion of new section –After section 18 of the Principal Act insert:

“19. Monitoring – (1) For the purposes of ensuring compliance with this Act ~~the~~ Chief Executive Officer and officers of the Ministry authorised by the Chief Executive Officer shall have the following powers:

(a) to require a holder ~~of~~ certificate, or his or her agent to provide answers, whether in

holder of a certificate, and to take copies of any document or record which may be stored within such computer or other electronic equipment, device or facility;

- (e) to require any bank, financial institution, accountant or lawyer to produce any document or record in their possession or control concerning a business which is believed to be conducted by or owned by the holder of a certificate and to provide the Chief Executive Officer or officer with a copy of any such document or record if requested to do so, unless the information is subject to legal professional privilege.”

18. Schedules (1) The Principal Act is amended by substituting the Schedule and replacing with the following:

*(section 3(1))*

RESERVED LIST

Item number	Activity	Description	Related activities excluded
1.	Bus transport services for the general public	Urban, suburban and rural regularly scheduled multi-stop passenger transportation on land. Services generally rendered on a licence basis within the confines of a single area or group of contiguous villages. These services are provided over predetermined routes and may provide pick-up and discharge passengers at any stop, and are open to any user	Bus services for private schools, hotels and tours, airport shuttles and buses for private businesses for transporting shift workers. These services are provided over predetermined routes and restricted category of user

2. Taxi transport services for the general public

and Services Tax  
Act 1992/1993

services of dairy products and  
eggs

Retail sale of meat including  
poultry and meat products;  
including retailing services of  
meat, poultry and game, and  
meat products

Retail sale of fish and other  
seafood including retailing  
services of fresh, prepared and  
preserved fish, and other  
seafood

Retail sale of bread and flour

5.	Saw milling		
6.	Traditional elei garment designing and printing		

SCHEDULE 2

*(Section 4(1))*

RESTRICTED LIST

The direct or indirect carry on of any aspect of business or activity in an economic sector specified in column 2 or economic sub-sector specified in column 3 of this Schedule is subject to the conditions specified in column 4 of this Schedule.

Item number	Sector	Sub-sector	Conditions
1.	Fishing	Commercial fishing vessels	<p>A foreign investor must have a maximum 40% equity</p> <p>Licence issued for commercial fishing vessels is limited in different categories listed by the Ministry</p>



(xiii) General construction  
(xiv) Civil engineering

incorporated in Samoa  
for service sub-sector activity (xiv), the activity may only be established through incorporation in



			are permitted at management level only; and a foreign investor providing a sewage service, refuse disposal service or a sanitation or similar service must establish a joint venture with a local partner
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