

# FOREIGN INVESTMENT REGULATIONS 2011

## SAMOA

### Arrangement of Provisions

1. Short title and commencement
2. Interpretation
3. Restricted List
4. Review and amendment of the Reserved and Restricted Lists
5. Application for foreign investment registration
6. Foreign investment

**“application”** means an application for foreign investment registration under section 8 of the Act and.

**3. Restricted List** – (1) The business or economic activities listed in Schedule 2 to the Act may be undertaken by non-citizens only if the Chief Executive Officer determines that the following conditions are met:

- (a) the level of foreign equity in the business or economic activity by a non-citizen is no greater than the level determined by the Minister following consultation with the Chief Executive Officer;
- (b) the amount of investment by a non-citizen in the business or economic activity is no greater than the amount determined by the Minister following consultation with the Chief Executive Officer;
- (c) the business or economic activity contributes to the employment and training of local citizens;
- (d) 50% of the amount of investment capital required for the business or economic activity is sourced from outside Samoa.

(2) The Minister may determine further conditions further to those specified under sub regulation (1) and the determination must be provided to Cabinet within 14 days of making the determination.

**4. Criteria and procedures for removing or adding to the Reserved and Restricted Lists** – (1) The criteria for removing or adding an activity to the Reserved and Restricted Lists are set out in Schedule 1.

(2) A person may make a written submission to the CEO for the removal or addition of an economic activity to the Reserved or Restricted Lists.

(3) A written submission made under sub regulation (2) must consist of all relevant information, comprehensive data and all other supporting documents in their original form.

(4) The CEO may reject any information or documentation provided under sub regulation (3) or exclude such information or documentation from its assessment of the written submission if the CEO is not satisfied that such information or documentation is not what it purports to be.

(5) After receiving a written submission under sub regulation (2), the CEO shall write to the person who made the written submission to –

- (a) acknowledge receipt of the submission; and

- (b) advise of the submission's preliminary assessment; and
  - (c) request further supporting information, if required;
- and

- (ii) address in Samoa;
- (f) the enterprise registration number and date of approval issued by the Registrar of Companies;
- (g) the exact location of the proposed place of business or activity and details;
- (h) submission by each shareholder of the following:
  - (i) one recent passport size photo;
  - (ii) a certified true copy of the photo page of his or her valid passport;

**7. Foreign investment register** – (1) The register required to be kept under section 10 of the Act of applications made and certificates granted may be in written or electronic form, or both, as approved by the Chief Executive Officer.

(2) The Ministry shall keep the register open for public inspection during normal business hours upon payment of the fee specified in Schedule 2.

(3) The Ministry shall record in the register the information specified in regulation 6 except the signature of the Chief Executive Officer.

(4) If a certificate lapses pursuant to section 9 of the Act or is cancelled pursuant to section 12 of the Act, the Chief Executive Officer must remove the business from the register and accord details of the lapse or cancellation in summary form.

**8. Amendment to certificates and entries in the register** – (1) Where a holder of a certificate granted under the Act changes his or her circumstances in which the original certificate was granted or is aware of a mistake in the certificate, the holder must notify the Chief Executive Officer by notice in writing of the change or mistake as soon as possible.

(2) If the Chief Executive Officer receives a notice pursuant to sub-regulation 1, the Chief Executive Officer may:

(a) amend the Register; or

(b) issue an amended certificate to the holder after payment by the holder of the fee specified in Schedule 2.

(3) If the Chief Executive Officer amends the register, the Chief Executive Officer shall provide a notice in writing specifying the amendment to the holder affected by the amendment.

**9. Service of notices** – (1) Any notice or document required to be served on or given to the Minister or the Chief Executive Officer may be deposited at the office of the Chief Executive Officer during normal business hours.

(2) Any notice or document required or authorized to be served on or given to an applicant or a certificate holder or any business registered under the Act or regulations may be deposited at the nominated address in Samoa of the applicant or certificate holder or the business, as the case may be, during normal business hours.

(3) A document signed by an applicant, certificate holder or a representative of any business registered under the Act or their agency, indicating the place and time of service, shall be sufficient to prove service of a notice or document.

**10. Fees** – The fees payable under the Act and these regulations are provided in Schedule 2.

**SCHEDULE 1**  
**CRITERIA FOR ‘REMOVING OR ADDING’ AN**  
**ECONOMIC ACTIVITY TO THE RESTRICTED**  
**LIST OR RESERVED LIST**

*(Regulation 4(1))*

<b>Criteria for adding new activities to the list</b>	<b>Benchmark</b>	<b>Criteria for removing activities from the list</b>	<b>Benchmark</b>
1. The economic activity is sufficiently taken care of by domestic investors and that additional entries would render unprofitable returns to existing operators;	At least 50% of existing businesses carrying out the same economic activity are locals	1. The economic activity is insufficiently taken care of by domestic investors and that additional entries would improve the supply of service; and creation of employment	At least 100 new jobs opportunities would be created Evidence of high level of skills and technology transfer that would result from the additional

	as that relating to increased allocated budgets for research and development.		inconsistent contributions	tax
--	---	--	----------------------------	-----