

Article Information

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What is the current status of FIRB thresholds for purchases of agricultural land?

This article examines the legality regarding foreign acquisitions of Australian agricultural land, and the current status of the FIRB reporting requirements.

Background

Several of our international clients have enquired of the current status of the approval threshold for acquisitions of agricultural land, especially following the Coalition's policy announcements in the lead up to the September Federal Election.

Since July 2011, Australia's Senate Standing Committee on Rural and Regional Affairs and Transport (Committee) has been examining the application of the 'national interest test' to purchases of Australian agricultural land by foreign entities. The Committee was due to report in late 2011 and after several extensions of time and an interim report in late 2012, the much anticipated final report was tabled in the Senate on 26 June 2013. The Report contained a total of 29 recommendations, some of which related to investment thresholds.

Recommendations on investment threshold and related issues

The Committee made the following recommendations in relation to investment thresholds and related issues:

- that the threshold for private foreign investment in agricultural land be lowered to \$15m (Recommendation 20)
- that once cumulative purchases of \$15m of private investment in agricultural land has been reached by a private business or associated entities, any further investment by that business or entity be required to receive FIRB approval regardless of value (Recommendation 21)
- that FIRB reviews any proposed foreign acquisition of an agribusiness where investment exceeds 15 per cent or more in an agribusiness valued at \$248 (indexed annually) or exceeds \$54m (Recommendation 22)
- that the zero trigger required for approval by FIRB for any purchase of agricultural land or an agribusiness by a state owned enterprise continue to apply (Recommendation 23).

Current status

The Coalition has announced a policy of investigating options to strengthen the rules governing the sale of Australian agricultural land and agribusiness to foreign entities. One of the changes to foreign investment rules being proposed by the Coalition is to lower the threshold for investment in agricultural land from the present level of \$248m to \$15m, as recommended by the Committee.

Whilst lowering the current foreign investment threshold is being considered by the Coalition, the threshold which triggers the FIRB review process for private foreign investment in agricultural land (indexed on 1 January 2014) remains at the time of this publication at \$248m.