Closer scrutiny of foreign investments in agricultural land

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In brief

The Australian Government has announced a series of measures to tighten the scrutiny of foreign investments in agricultural land, following a Parliamentary inquiry into this politically sensitive issue. The Government has confirmed that it continues to welcome foreign investment and that the measures simply improve oversight over that process to ensure that investments are not contrary to the Australian national interest.

In detail

What you need to know?

1. **Decreasing the screening threshold** – the threshold at which the Foreign Investment Review Board (FIRB) must be notified of a transaction in respect to agricultural land will reduce to $15 million (from $252 million) from 1 March 2015.
2. **Cumulative purchases by the same foreign investor** –the new screening threshold will apply to the cumulative value of agricultural land owned by the foreign investor – that is, the value of past acquisitions will be added to the proposed purchase in assessing whether the threshold is met. This will be particularly relevant to farm aggregation transactions.
3. **National register of foreign ownership of agricultural land -** a national register of foreign ownership will be established to record and track foreign ownership of agricultural land.
4. **Enhance information collection and information sharing -** the Australian Taxation Office (**ATO**) will start collecting information on all new foreign investment in agricultural land regardless of value from 1 July 2015. The Federal Government will also work with state and territory governments to give ATO access to the land title transfer information held by them.

The Government is expected to release a revised Australia's Foreign Investment Policy (**Policy**) on the changes to the foreign purchases of agricultural land. We expect the Policy to provide more clarity, among other things, on whether a higher screening threshold would apply to foreign investors from United States, New Zealand, Chile, Korea and Japan as a result of the Free Trade Agreements entered into between Australia and each of these countries.

The takeaway

What can you do?

The changes mean that many previously exempt acquisitions will now be subject to review by FIRB. It does not mean that clearance won't be forthcoming, but rather that the issue will need to be dealt with. Foreign purchasers should:

a. allow time to obtain clearance for transactions;

b. be aware of the value of previous land purchases in assessing whether clearance is needed; and

c. be prepared for the sharing of information with the ATO and state and territory governments.

Let's talk

We have experience advising foreign investors investing in agribusiness. In particular, we can assist your business by:

- advising you on FIRB approval requirements and clearance process;
- providing advice on corporate structuring and transaction design;
- assisting you with targeted due diligence on proposed investments;
- providing specialist advice on conveyancing, stamp duty and immigration matters relevant to your proposed investment; and
- advising on tax and duty issues in structuring your transaction.

For a deeper discussion of how these issues might affect your business, please contact your usual PwC advisor or the contacts below.

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