
Foreign investment in agricultural land – it's time to register

1 July 2015

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In brief

From today all new acquisitions by foreign investors of interests in Australian agricultural land must be registered with the Australian Government. Existing foreign investors with interests in Australian agricultural land have until 31 December to register their interests.

In detail

As previously reported, the Australian Government announced a package of reforms to enhance compliance by foreign investors with Australia's foreign investment requirements in May 2015. In support of this, the Australian Government has released an updated edition of the 'Australia's Foreign Investment Policy' document (**Policy**) which provides guidance on the measures.

Establishment of register of foreign interests in agricultural land

A register has now been established by the Australian Taxation Office (**ATO**) to record interests in agricultural land held by foreign investors (**Register**). Importantly, it is expected that information in the Register will be made available to the Australian public in 2016.

Compulsory notification of foreign interests in agricultural land

From today, all acquisitions by foreign investors of interests in Australian agricultural land must be notified to the ATO within 30 days of the acquisition, regardless of value. Foreign investors have until 31 December 2015 to notify the ATO of existing interests they may have.

Registration is different to national interest screening

The obligation to register the acquisition of an interest in agricultural land is distinct from the obligation to notify the Treasurer of a proposed acquisition of an interest in 'Rural Land' or vacant 'Urban Land' for assessment of whether the acquisition is contrary to the Australian national interest.

The term 'Agricultural Land' is defined in the Policy as: 'land in Australia that is used, or that could be reasonably used, for a primary production business'.

In contrast, the term ‘Rural Land’ is defined in the Policy more narrowly as: *‘land used wholly and exclusively for carrying on a business of primary production. To be a business of primary production, the business must be substantial and have a commercial purpose or character’.*

For instance, an acquisition of an interest in vacant land that might be used for agriculture may require registration as ‘Agricultural Land’ but may not fall within the definition of ‘Rural Land’. In this case it is likely to be considered ‘Urban Land’ and may be subject to compulsory national interest screening under the Policy, regardless of value. For completeness, we also set out below the screening thresholds for acquisitions of ‘Rural Land’:

Investor	Screening threshold
US, NZ, Chile private investor	\$1,094m – standalone basis
Singapore, Thailand private investor	\$55m – standalone basis
All other private investors	\$15m - cumulative basis
Foreign government investors	\$0

Let’s talk

It is more important than ever for foreign investors to obtain the right advice on investment in Australia. Our legal experts routinely advise on all aspects of their investment in Australia, including:

- foreign investment notification requirements and clearance process;
- corporate structuring and transaction design;
- tax and duty issues in transaction design;
- targeted due diligence in relation to target assets;
- real property conveyance and leasing;
- compliance with requirements in regulated industries; and
- employment, industrial relations and immigration.

We also bring to our clients the breadth of expertise throughout PwC, within Australia and around the world, notably including our corporate finance specialists and our real estate advisory team.

To find out more about how these issues might affect you, please contact your usual PwC advisor or:

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