



COVID-19 Update: What you need to know about temporary changes to Australia's Foreign Investment Framework

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The Morrison Government has announced temporary changes to the foreign investment review framework by removing the existing thresholds for foreign investments in Australia which are subject to the *Foreign Acquisitions and Takeovers Act 1975 (Act)*.

Temporary changes effective 29 March 2020

With immediate effect, all proposed foreign investments into Australia subject to the Act will require approval, regardless of the value or the nature of the foreign investor. Accordingly, all monetary screening thresholds for foreign investments under the Act have been temporarily set to \$0.

These changes temporarily reduce to zero the existing monetary thresholds on both land and non-land proposals including (but not limited to):

- acquisitions in sensitive and non-sensitive businesses from various FTA partner countries;
- business acquisitions (all sectors) from other investors;
- agribusiness activity;
- various agricultural, developed commercial land, and mining and production tenement proposed activities from a range of investors; and
- leases of more than 5 years, including any options for renewal. These are most commonly encountered by us in relation to "developed commercial land".

The changes will apply to all foreign persons subject to the Act, irrespective of the investor's country of origin, and irrespective of whether they are a private foreign investor or a foreign government investor.

Which investments are affected?

The revised threshold amounts apply to foreign investments which are subject to the Act made on or after 10.30 pm (AEST) Sunday 29 March 2020.

People that can help



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Applications currently underway will likely be subject to an increase in processing times as the Foreign Investment Review Board (**FIRB**) consider applications in light of the temporary lowering of thresholds.

It is noteworthy that the new measures do not change the meaning of significant or notifiable actions under the Act, other than the monetary component of those definitions. Accordingly, foreign persons proposing to

take certain actions will need to notify the Treasurer if the action satisfies the meaning of a notifiable action under the Act.

Rollout of temporary changes

1. The FIRB will prioritise urgent applications for investments that protect and support Australian businesses and Australian jobs.
2. All foreign investment applications will be assessed against the national interest (including support for employment on a case by case basis).
3. To ensure sufficient time for screening applications, the FIRB will be working with existing and new applicants to extend timeframes for reviewing applications from 30 days to six months.
4. Treasury, the FIRB and relevant government departments will continue to update investors on the rollout of the temporary changes over coming days.

Requests for discretionary refund of fees on withdrawals of foreign investment applications

Where the Government's temporary measures result in delays to, or deferrals of, investment decisions that are currently the subject of a foreign investment application, and the applicant wishes to withdraw that application, the FIRB will consider refunding the fee paid. This policy position provides a temporary exception to Guidance Notes 29 and 30 concerning fee refunds in the event of a withdrawal.

Why are the changes being made?

The temporary lowering of foreign investment thresholds to zero will ensure appropriate oversight over all proposed foreign investment during this time and is designed to protect Australia's national interest as Australia deals with the economic implications arising from the spread of the coronavirus.

Further information

Russell Kennedy is well placed to assist existing and pending applicants navigate the temporary adjustment of threshold limits and change in application process.

If you require further information please contact [Andrew Parlour](#) or [Rory Maguire](#) from our [Corporate & Commercial Advisory](#) and [Mergers and Acquisitions](#) teams or [Mark McKinley](#) from our [Property & Development](#) team.

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