

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

17 October – 18 October 2012

Question: SBT 153-156

Topic: National Interest Test

Written: Received from Committee – 26 October 2012

Senator JOYCE asked:

Regarding the Foreign Investment Review Board (FIRB) and its guidelines in relation to the national interest test:

153. What is the policy basis underlying why *all* proposed purchases of *residential* properties by foreign investors require FIRB approval without any de minimis or monetary thresholds applying?
154. This stringent policy does not similarly apply to proposed purchases of *agricultural land* by foreign investors. Instead, only those above a de minimis or monetary threshold of \$244 million (indexed to inflation each year) need scrutiny and approval from FIRB. This in effect allows all purchases of agricultural land to be exempt from FIRB and national interest *scrutiny*, as essentially all such purchases are under this threshold. What is the policy basis underlying this difference in treatment?
155. Is it sensible to treat agricultural land just like any other *business* asset when it comes to foreign ownership approval and the national interest? Should the treatment of approvals for agricultural land align, or more closely align, with that for residential properties? Are there grounds for a third or intermediate category?
156. Are these considerations that the working group – consulting on the development of a Commonwealth foreign ownership register for agricultural land – are undertaking in detail?

Answer:

Australia's foreign investment arrangements strike a balance between attracting foreign investment into Australia to support our economy, and ensuring that investments are not contrary to the national interest.

Foreign acquisitions of residential real estate require notification regardless of value.

The Act treats proposed investments in agribusinesses (including those involving rural land) the same as other foreign acquisitions of Australian companies or business assets. Rural land is defined 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. The definition of a primary production business is taken from the *Income Tax Assessment Act 1997* and refers to production resulting from the cultivation of land; animal husbandry/farming; horticulture; fishing; forestry; viticulture or dairy farming. All proposed direct investments, new businesses and land acquisitions (including in agriculture) by foreign government investors require approval, regardless of value.

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In June 2012, the Government announced a working group to consult on the development of a national foreign ownership register for agricultural land. The register will provide the community with a more comprehensive picture of the specific size and location of foreign agricultural landholdings over and above what is currently available.

The working group is seeking stakeholder views on the establishment of the register, including:

- what ownership interests should be captured under the register;
- how the register will interact with existing State and Territory land title registration systems, including the Foreign Ownership of Land Register in Queensland;
- ways to monitor and enforce compliance; and
- how information would be reported on and disclosed under the register.