

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

17 October – 18 October 2012

Question: SBT 63-65

Topic: National Interest Test

Written: Received from Committee – 25 October 2012

Senator XENOPHON asked:

63. Can the department provide a definition for 'national interest' in relation to the test applied by FIRB?
64. Is this definition consistent across the whole of government – for example, is it the same as the definition used by the ACCC when applying a national interest test to proposed business deals?
65. Is the definition enshrined in law? If so, which acts?

Answer:

Australia's Foreign Investment Policy (found at <http://www.firb.gov.au/content/policy.asp?NavID=1>) provides guidance on the factors that the Government typically considers when assessing the national interest implications of foreign investment proposals in any sector.

The national interest considerations outlined in Australia's Foreign Investment Policy are specific to Australia's foreign investment screening regime.

Consistent with foreign investment proposals being reviewed against the national interest case-by-case, the *Foreign Acquisitions and Takeovers Act 1975* which provides the legislative framework for Australia's foreign investment screening regime, does not define the 'national interest'. The case-by-case approach maximises investment flows, while protecting Australia's interests. The flexible approach is preferred to hard and fast rules as rigid rules that prohibit a class of investment can also stop valuable investments.