

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2015 - 2016

Department/Agency: Treasury
Question: AET 3701-3703
Topic: Register of Strategic Assets (FIRB)
Reference: written - 29 February 2016
Senator: Wong, Penny

Question:

A new regulation (Regulation 31) exempts land or businesses owned by a State, Territory or local government authority from scrutiny in the Foreign Investment Review Process. This was introduced when a similar exemption was removed from the Foreign Acquisitions and Takeovers Act Amendment (2015).

3701. Who did the Government consult with before introducing Regulation 31?

3702. What was FIRB's recommendation to Government about Regulation 31?

3703. Does FIRB have a Register of Strategic Assets, including those belonging to State, Territory and local governments?

Answer:

It is a long-standing feature of the foreign investment framework that acquisitions directly from an Australian government do not require approval, unless the acquirer is a foreign government investor.

As part of the re-write of the legislative framework, the provisions that contain this exemption were moved to section 31 of the *Foreign Acquisitions and Takeovers Regulation 2015*. This was consistent with the general approach adopted of making the legislative framework clearer by having all exemptions in the same place (rather than some in the legislation and others in regulations).

Significant consultation was undertaken throughout 2015 on the Government's reforms to the foreign investment framework, including consultation on exposure drafts of the legislation and the regulations. In addition to the feedback received from members of the public, Treasury received a number of submissions from industry groups, including the Law Council of Australia, the Business Council of Australia, the Property Council of Australia and the National Farmers' Federation. We also had regular meetings with these industry groups. The views put forward, as well as the views of the Foreign Investment Review Board (FIRB), were incorporated in Treasury's advice to the Government.

FIRB does not have a 'Register of Strategic Assets'. The Government has indicated that while foreign investment is an important source of capital to build the infrastructure that Australia needs, it is imperative that critical infrastructure sales are scrutinised to ensure any potential national security risks can be addressed. FIRB supports this through its national interest assessments. National security is a key national interest factor and Treasury and the FIRB work closely with relevant national security agencies when considering the extent to which investments affect Australia's ability to protect its strategic and security interests.