RULES and TRENDS

Australian foreign direct investment

Key monetary thresholds

$252m
M&A: substantial interest in companies and trusts
Real estate: non-sensitive developed commercial land

$55m
M&A: direct interest in agribusinesses
Real estate: sensitive land

$15m
Real estate: agricultural land (cumulative threshold)

$0
Foreign government investors: all real estate and nearly all M&A transactions.
Real estate: residential land and vacant land

Key changes

More costs: application fees of $5,000 to $101,500 now payable

More monitoring: more active regulators

More complex: completely new law, with 46 Guidance Notes

More risks: criminal and civil penalties, including divestment

Timeline

1 Mar 2015	1 Dec 2015	20 Dec 2015	31 Mar 2016	3 May 2016	May – July 2016	2 July 2016	Since July 2016
New rules for agricultural land and agribusiness transactions	Australia's foreign investment regime was completely rewritten and reformed	Last of the recent FTAs implemented (China, Korea & Japan)	New rules for acquisitions of critical state owned assets	New 'standard' tax-related conditions updated	The 'caretaker period': 'significant' proposals delayed until after Federal election	Federal election	More uncertain political climate, particularly in the Senate cross-bench

Sensitive areas

Agribusiness: sale of S. Kidman and Co to foreign purchasers blocked

State privatisations: caps on foreign ownership levels if cleared to proceed, Ausgrid blocked

Healthcare: more conditions being imposed on health transactions

Transport/infrastructure: Critical infrastructure now captured even if sold by a State or Territory

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- Canberra office with a close relationship with The Treasury
- Provides strategic foreign investment advice in the political, commercial and economic context
- Delivers solutions through early and effective engagement

Note

Higher thresholds exist for investors from **FTA agreement countries**, though they rarely apply

MinterEllison

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