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To:
Cc:
Subject: s45, s47, s47E(d)
Attachments: s22
Letter.docx
Importance: High

Consultation

FOREIGN INVESTMENT PROPOSAL FOR COMMENT

Please see the attached documents from the Foreign Investment Review Board.

We seek any comments your [area](#) may wish to provide by **12 November 2010**.

Foreign Investment Review Board

c/- Foreign Investment & Trade Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600
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Foreign Investment Review Board

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FOREIGN INVESTMENT PROPOSAL: s45, s47, s47E(d)

Please find enclosed a copy of an application for foreign investment approval received by Treasury under the *Foreign Acquisitions and Takeovers Act 1975* (the FATA) or the Government's Foreign Investment Policy (the Policy). These papers contain information provided in commercial confidence to the Government and should not be disclosed outside your organisation.

The purpose of consulting your organisation is to seek comment or information on the investment proposal so that the Treasurer receives whole of government advice on the application. While proposals are examined individually, any advice to the Treasurer can also incorporate broader information and comment on the industry sector or the investing entity. Any comments should address potential national interest issues arising from the investment.

We invite your organisation to provide any such comments, information or advice that it wishes to make. We also seek your assistance in passing this material to relevant officers within your agency and in coordinating your agency's response. Attached is an outline of Australia's foreign investment review framework as context for your officers in providing comments or information.

Summary of the foreign investment proposal

Summary of the proposal

s45, s47, s47E(d)

s45, s47, s47E(d)

On 18 May 2009, McGrathNicol (Receivers) were appointed as receivers over various companies in the Great Southern group. The Receivers have commenced a sale process to divest the Great Southern Forests assets, which includes the rural land that the Buyer wishes to acquire. The assets consist of approximately 269,000 ha of freehold forestry land with a net productive area of approximately 167,500 ha. These are predominately located in Australia's prime forestry regions of Albany on the south coast of Western Australia, Bunbury on the west coast of Western Australia and the Green Triangle region of south eastern Australia.

Timing and contact details

Your organisation's response should be provided to firbconsultations@treasury.gov.au as early as practicable and by no later than 12 November. In the event a response is not received by that date it will be treated as signifying that your organisation had no comment on the proposal.

The action officer in your organisation may wish to contact [redacted] on (02) 6263 [redacted] and [\[redacted\]@treasury.gov.au](mailto:[redacted]@treasury.gov.au) to discuss the material and any issues prior to your formal response.

Executive Member
Foreign Investment Review Board

AUSTRALIA'S FOREIGN INVESTMENT REVIEW FRAMEWORK

Australia's foreign investment screening arrangements are designed to encourage foreign investment recognising the substantial contribution it makes to our economy and community. They provide a process to consider whether individual investments are contrary to the national interest.

The acquisition of certain interests in Australia businesses by 'foreign companies' and 'persons' are subject to the *Foreign Acquisitions and Takeovers Act 1975* (the FATA). The FATA defines a 'foreign person' as foreign controlled companies and natural persons not ordinarily resident here.

The FATA provides the power to prohibit acquisitions resulting in foreign control of Australian businesses or ownership of land where the Treasurer considers it to be contrary to Australia's national interest. The Government's foreign investment policy and the FATA apply to:

- acquisitions of a substantial interest in the shares or voting power in Australian businesses, with assets exceeding, or the transaction valuing it above, \$231 million;
- acquisitions of the assets of an Australian business valued at more than \$231 million;
- acquisitions in Australian businesses where more than 50 per cent of its assets is land;
- direct investments by foreign Governments and their related entities, regardless of the value of the investment; and
- acquisitions of land (including via a lease of more than 5 years, or via a licence or right).

The Treasurer can within 30 days of receiving a notification (extendable by up to 90 days), make an order prohibiting an acquisition of shares, assets or land where the Treasurer considers:

- the company/business/assets would become controlled by a foreign person; and
- this result would be contrary to the national interest.

Instead of making an order, the Treasurer can impose legally binding conditions that are considered necessary to prevent the acquisition being contrary to the national interest.

The FATA does not define the 'national interest' or what is contrary to it. The Government's foreign investment policy provides guidance. However, under the FATA decisions on the national interest as it applies to a particular foreign investment are for the Treasurer to make.

THE CONSULTATION PROCESS

Consultation with Commonwealth/State/Territory organisations is intended to identify any potential national interest issues and assist Treasury formulate whole of government advice to the Treasurer.

Organisations are requested to provide any comments, information or advice they consider will assist in evaluating the proposed investment and any potential national interest issues. This can include material on the investing entity, the target entity or on the industry sector involved. It can also include information or comment that provides a broader perspective on the industry or sector. Organisations are invited to include in responses material received by them from portfolio agencies.

Further information is available at the Foreign Investment Review Board website www.firb.gov.au.