



11 February 2013

Land Register Consultations Working Group
Foreign Investment and Trade Policy Division
The Treasury
Langton Crescent
Parkes
ACT 2600

Email: landregisterconsultations@treasury.gov.au

Dear Sir/Madam,

Establishing a national foreign ownership register for agricultural land

Thank you for the opportunity to comment on the above. The Institute of Chartered Accountants (the Institute) has considered the Consultation Paper (DP) and our comments follow.

The Institute is the professional body for Chartered Accountants in Australia and members operating throughout the world.

Representing more than 72,000 current and future professionals and business leaders, the Institute has a pivotal role in upholding financial integrity in society. Members strive to uphold the profession's commitment to ethics and quality in everything they do, alongside an unwavering dedication to act in the public interest.

Chartered Accountants hold diverse positions across the business community, as well as in professional services, government, not-for-profit, education and academia. The leadership and business acumen of members underpin the Institute's deep knowledge base in a broad range of policy areas impacting the Australian economy and domestic and international capital markets.

The Institute of Chartered Accountants Australia was established by Royal Charter in 1928 and today has more than 60,000 members and 12,000 talented graduates working and undertaking the Chartered Accountants Program.

The Institute is a founding member of the Global Accounting Alliance (GAA), which is an international coalition of accounting bodies and an 800,000-strong network of professionals and leaders worldwide.

The Institute recognises the importance of foreign investment in Australian agriculture. This investment is vital in supporting production and job creation which contributes to the prosperity of our regional areas. It is important to balance the need for foreign investment with community concerns around foreign investment in agricultural land. We support the creation of a national foreign ownership register for agricultural land as a way of balancing these concerns against the very real need for foreign investment in agriculture. However, it is essential that any reporting requirements do not result in a significant compliance cost and deter potential investors. We have provided our detailed comments on these areas in the appendix to this letter.

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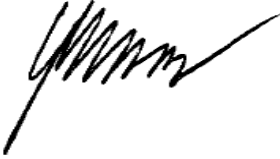
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If you have any questions regarding this submission, please do not hesitate to contact me at Yasser.el-ansary@charteredaccountants.com.au or Geraldine Magarey at geraldine.magarey@charteredaccountants.com.au

Yours faithfully,



Yasser El-Ansary
General Manager – Leadership & Quality
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Appendix

Question 1: *What should be the scope of a national foreign ownership register for agricultural land, including definitions?*

The Institute supports the current usage of the term 'rural land' under the current foreign investment regulatory framework for the national foreign ownership register. It should cover all land used wholly and exclusively for carrying on primary production. The definition contained in the *Income Tax Assessment Act 1997* provides a suitable definition for the term 'primary production'.

Question 2: *What interests should or should not be included when defining foreign ownership?*

The register should capture both direct and indirect interests in defining foreign ownership. This would include interests held via a long term lease or licence as well as ownership via trusts or companies.

The Institute does not believe companies who engage in money lending activities and hold a security interest over agricultural land should be included on the register.

Question 3: *What do you view as the most important data requirements of a national foreign ownership register for agricultural land, and why?*

The Institute believes the following data should be included in a register.

- Identity of the land owner.
- Nationality of land holder. This will allow tracking of investment sources.
- Location of the agricultural land.
- Area of land held.

Question 4: *How do you think the following terms should be defined for a national foreign ownership register for agricultural land, and why?*

- a) *Agricultural land*
- b) *Foreign ownership*

The Institute supports the definition of agricultural land and foreign ownership contained in the consultation paper. The definitions are consistent with other legislation and are commonly accepted definitions.

Question 5: *What additional information could a national foreign ownership register for agricultural land collect, and why? For example, what types of water access rights (such as a water access entitlement) could be included?*

Water rights that are associated with a land holding could be included in the register due to the high value now placed on these rights as production inputs. However, there are differences between the states in requirements for registration of water rights which may make this difficult to implement. It is important that any additional requirements outside of the actual land ownership do not impose an unnecessary compliance cost which acts as a deterrent to foreign investment.

Question 6: *Is it desirable to exclude from a national foreign ownership register of agricultural land some smaller transactions? If so, what threshold is appropriate, and why?*

The Institute believes a threshold would be appropriate to ensure foreign investment is encouraged in agriculture and the compliance cost of registration does not deter potential investment. A threshold based on a monetary value may be the simplest measure to implement, with a regular review of threshold levels to ensure ongoing relevance.

Question 7: *Do you consider it important that the national foreign ownership register for agricultural land should include an initial stocktake of land holdings by foreign persons noting the potential compliance and other costs that may be involved? Why?*

The Institute believes that to enable comparative information, some form of base case should be established. However, this must be weighed up against potential significant upfront costs. While it is important to have accurate data to determine the starting point for the register, if the costs are significant it may not be an effective use of funds given the current levels of foreign investment.

QUESTION 8: *What is the most effective way to undertake an initial stocktake?*

The Institute believes any stocktake needs to be conducted efficiently and cost effectively. Therefore it is important to leverage existing information and registers before conducting any stocktake.

QUESTION 9: *What specific rules or other arrangements do you consider important to include in any compliance framework?*

Monetary sanctions of a level sufficient to deter non-compliance could be considered as part of the registration requirements.

QUESTION 10: *Having regard to arrangements in Australian jurisdictions and overseas, what timeframe for the provision of registration information do you consider appropriate?*

The Institute believes the register should be updated on a timely basis following legal settlement of the agricultural land purchase. Based on arrangements in both Australian and overseas jurisdictions, a timeframe of 90 days is suggested.

QUESTION 11: *How should information collected in the register be reported and disclosed, and in what level of detail, while meeting privacy and confidentiality obligations?*

The Institute believes the registration process should be transparent. Therefore the data suggested in question three should be available to all interested parties.

QUESTION 12: *How could the data collection processes underpinning a national foreign ownership register for agricultural land be coordinated with other related data collection processes?*

The Institute believes it is important to minimise compliance costs and avoid any unnecessary duplication with existing regulations including state regulations. Therefore it is important that existing registration and register requirements are utilised where possible to collect data.

QUESTION 13: *Do you have any suggestions or comments on how to minimise the regulatory burden associated with a national foreign ownership register for agricultural land?*

Foreign investment is important to the future success of agricultural production in Australia. It is vital that any regulatory burden associated with a national foreign ownership register is minimal. Utilising existing registers and registration requirements should assist with reducing this burden. The implementation of a threshold will also minimise any regulatory burden.

QUESTION 14: *Please consider providing any general or additional feedback to the working group to assist in developing a national foreign ownership register for agricultural land.*

The Institute has no further comments.