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James McLean Dreyfus

A/Senior Adviser
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The Treasury
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By email: FIRBStakeholders@treasury.gov.au

Dear Mr McLean Dreyfus

Major reforms to the Foreign Investment Review Framework

The Australian Financial Markets Association (AFMA) welcomes the opportunity to comment on the proposed reforms to the Foreign Investment Review Framework.

AFMA is a member-driven and policy-focused industry body that represents participants in Australia's financial markets and providers of wholesale banking services. AFMA's membership reflects the spectrum of industry participants including banks, corporate advisers, stockbrokers, dealers, market makers, market infrastructure providers and treasury corporations.

AFMA has engaged with the issues arising for our members as a result of changes to the Foreign Investment Review Framework. We note that foreign investment will be key to both Australia's recovery from the severe economic impact of the COVID-19 pandemic and international competitiveness going forward.

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1. Balancing national security considerations with commercial interests

AFMA understands that the key measure being introduced in the reforms to the foreign investment regime is in response to increased risks to the national interest and concerns around national security. While we support the need to protect the national interest from potential security threats, we believe that it is important for the Government to ensure the outcome of the reforms is an appropriate balance between national security considerations and ensuring Australia remains an attractive location for foreign investment with regard to regulatory predictability and efficiency of doing business investment, particularly to ensure recovery from the economic uncertainty created by COVID-19.

AFMA submits that increased transparency and consistency during review processes will better facilitate competition and attract foreign investment. As such we ask that clarity in the form of further guidance notes be produced to provide definitional certainty and reduce uncertainty about the new reforms.

More broadly, we consider that there should be increased clarity and consistency on any conditions that may be imposed on acquisitions to allow greater transparency for potential investors. It is critical that the Government does not impose additional regulatory burdens which may be duplicative or redundant. Accordingly, there is a need to build a comprehensive understanding of any regulatory overlap between FIRB conditions and obligations that exist across industry through other regulatory review frameworks. For example, it would be useful for Treasury to be able to map the various regulatory review requirements and access barriers that a foreign investor may face coming into this market and provide that information on the FIRB website.

2. Streamlining of non-sensitive investments

Given the introduction of a new national security test will aid with the protection of Australia's national interest, it seems sensible to introduce further streamlining measures for non-sensitive investments to allow flow of capital to stimulate the economy and reduce the regulatory burden involved in assessing investments that do not need to be reviewed.

AFMA will consider the new regulations when they are released in September, with a focus on the reduced scope of the money-lending exemption.

Please contact Natalie Thompson on (02) 9776 7979 or nthompson@afma.com.au if you would like further clarification on the above.

Yours sincerely



David Love
General Counsel & International Adviser