



## **ALL BUSINESS ACQUISITION APPLICATIONS SHOULD HAVE A COVER LETTER INCLUDING:**

- A clear explanation of the action(s) being notified, including:
  - The consideration value in Australian dollars and the calculation basis;
  - Description of the type of proposed interest and any associated rights and obligations (for example, assets, shares, land);
    - Where applicable, details of the counterparties to the equity swaps or other similar for any equity swap or similar arrangement (for a single counterparty and its associates) covering more than a 1 per cent economic interest in the same company
- Details of each party related to the action (purchaser, both acquiring subsidiary and parent, and target, including):
  - Name, major activities and locations, incorporation details, major subsidiaries and associated companies and details of any Australian operations;
  - Details of any existing relationship or economic interest between the parties involved;
  - Values for total assets, Australian assets and market capitalisation (if applicable); and
  - Ownership and control details, including identities and country of origin of shareholders with an interest of greater than 5 per cent and their shareholdings, and any beneficial owners (including foreign government investors).
    - In the case of managed funds, this information is required for the fund manager and any fund investors. The aggregate percentage of the foreign government beneficial ownership in the fund (by country) is also required.
- Details relating to the rationale of the action, including:
  - Commercial rationale behind the proposal;
  - Details of existing investments or assets in Australia;
  - Description of purchaser's intentions for the business, including any changes to the composition of the board or management structure;
  - Any relevant information pertaining to domestic or international investigations, rulings, ineligibilities, or conditions imposed as part of previous foreign investment approvals, or exclusions relating to either the purchaser or the target;
  - Details relating to any engagement with other Australian regulatory agencies (including the ATO or ACCC) about the proposal, including contacts in those agencies; and
  - Any claims you wish to make against the national interest criteria.

## **ALL BUSINESS ACQUISITION APPLICATIONS SHOULD ALSO INCLUDE:**

- Ownership structure diagrams showing the structure before and after the action(s).
- Step diagrams, Deal chart, Sale Agreement, Share Agreement, debt and equity term sheets and any other relevant documentation.
- Copy of last financial year's audited financial statements or, if unavailable, latest financial records or unaudited financial statements.

**If the proposal relates to a new business, please include the following additional information:**

- Description of the proposed business plan, including:
  - Primary activity proposed and target clientele;
  - Total funds to be invested;
  - Timeframe;
  - Proposed location and entity names;
  - Expected number of employees; and
  - Details of where the business will operate including intended lease holdings or property to be purchased.
- Ownership details of the proposed business, including voting and board representation rights.
- Details of any patents, royalty, export franchises and licensing arrangements.
- List of any regulatory approvals that the new business will require.

**If the target has significant interests in Australian land, please include the following additional information:**

- The value of the interests in Australian land and the value as a proportion of the target's total assets.
- An explanation of the current use of the land in accordance with definitions in the Act (agricultural land, mining or production tenements, residential land and/or commercial land).

**If the proposal relates to a reorganisation, please include the following additional information:**

- A detailed explanation of the purpose of the reorganisation, including how it furthers the company's investment plans in Australia and detail of any recent changes to taxation laws or corporate laws, either in Australia or overseas, that are driving the proposal.
- Description of the implications, including any potential adverse implications for Australia.
- Tax implications of the reorganisation, including tax paid in Australia last financial year; estimated tax impact of the proposal in the next five financial years; and if applicable, a record of discussions held with the Australian Taxation Office.
- Details of the main assets in Australia that will be affected by the reorganisation.
- Value of the consideration for each transfer being made as part of the reorganisation.
- Details of whether the applicant expects to attribute its Australian-sourced business profits to a permanent establishment located in Australia following the proposed reorganisation. If not, why not? Alternatively, details of whether the applicant expects that such profits would be derived by an Australian subsidiary.

**If there is an increase in debt funding:**

- What effect will the increase in debt to fund the Australian operations have on tax revenue in the short term? What is the increase in the level of interest expense as a result?
- If there is an increase in debt funding, how will the restructure affect the company's compliance with the thin capitalisation rules?
- Will assets be revalued for thin capitalisation purposes? If so what will the affect be on the total value of Australian assets?
- Will the restructure result in a change in the thin capitalisation test the company relies upon? If so what is the change?

Please provide any explanation or comments in the event that you are unable to provide any of the requested information.