Australian Government

Foreign Investment Reforms Factsheet: Agriculture

New screening arrangements

Since 1 March 2015, foreign persons have been required to obtain prior approval for a proposed acquisition of an interest in agricultural land where the cumulative value of the agricultural land owned by the foreign person, including the proposed purchase, is $15 million or more. Consistent with free trade agreement commitments, this applies to all non-government investors except those from the United States, New Zealand, Chile, Singapore and Thailand.

Foreign persons will also need to obtain prior approval when taking a direct interest of $55 million or more in an agribusiness (regardless of the value of the agribusiness). This applies to all non-government investors except those from the United States, New Zealand and Chile.[1] Agribusiness is defined as per the Australian and New Zealand Standard (ANZSIC) and captures primary production businesses and certain first stage downstream manufacturing businesses (including meat, poultry, seafood, dairy, fruit and vegetable processing and sugar, grain and oil and fat manufacturing).

All proposed direct interests by foreign government investors, including in agriculture, continue to be reviewed.

The Government has also established a register of foreign ownership of agricultural land in the Australian Taxation Office that started collecting data from 1 July 2015. This includes a stocktake of existing ownership to provide a clear picture of foreign investment in Australia's agriculture sector.

New fees

Applicants will pay a fee before their foreign investment application is processed. The fees apply per application.

Type of investment	Fee	Thresholds to apply from 1 December 2015
Agricultural land	$5,000-$100,000	$15 million (cumulative) with exceptions for some FTA countries.[2]
Investments in agribusinesses	$25,000 or $100,000 where the investment is greater than $1 billion	$55 million (indexed annually) (based on the value of the investment). Exceptions apply for some FTA countries.[3]
A program of land acquisition	$25,000 or $100,000 where the investment is greater than $1 billion	N/A

1. Investors from these countries will require prior approval if acquiring a substantial interest (20 per cent or more) in an agribusiness valued above $1,094 million.
2. For non-government investors from the United States, New Zealand and Chile the threshold is $1,094 million. For non-government investors from Singapore and Thailand the threshold is $50 million.
3. For non-government investors from the United States, New Zealand and Chile the threshold is $1,094 million.

The introduction of application fees provides improved service delivery for investors and ensures Australian taxpayers are no longer funding the administration of the system.

New penalties

The Government is increasing the existing criminal penalties and introducing new civil pecuniary penalties for breaches of the foreign investment rules.

Breach of rule	New penalty
Foreign person makes an acquisition without approval	**Increased Criminal Penalty** Maximum criminal penalty of: • Individual — 750 penalty units ($135,000) or 3 years imprisonment. • Company — 3,750 penalty units ($675,000). **Civil penalty** Maximum civil penalty of: • Individual – 250 penalty units ($45,000). • Company – 1,250 penalty units ($225,000).
Foreign person fails to comply with a condition of approval	**Increased Criminal Penalty** Maximum criminal penalty of: • Individual — 750 penalty units ($135,000) or 3 years imprisonment. • Company — 3,750 penalty units ($675,000). **Civil penalty** Maximum civil penalty of: • Individual – 250 penalty units ($45,000). • Company – 1,250 penalty units ($225,000).