



NO OBJECTION NOTIFICATIONS

Under sections 74 and 75 of the *Foreign Acquisitions and Takeovers Act 1975* (Act), the Treasurer can issue a no objection notification for certain investments (called significant actions), if the Treasurer considers that the investment is not contrary to the national interest. Some significant actions are also notifiable actions and are required to be notified to the Treasurer. For more information, see Guidance Note 35.

EFFECT OF A NO OBJECTION NOTIFICATION

Where a person has been issued a no objection notification in relation to an action, provided that the person does not contravene conditions (if any) specified in the notification, the Treasurer will not be able to issue a prohibition or disposal order in relation to that action. This guidance note provides details of the Treasurer's powers to issue no objection notifications.

No objection notification not imposing conditions

Under section 75 of the Act, if the Treasurer receives a notice that a person proposes to take an action, the Treasurer may decide that the Commonwealth has no objection to the action and issue a no objection notification without imposing conditions.

No objection notification imposing conditions

Under section 74 of the Act, the Treasurer may decide that the Commonwealth has no objection to a significant action subject to one or more conditions being imposed that the Treasurer is satisfied are necessary to ensure that the action will not be contrary to the national interest. The Treasurer can issue a no objection notification imposing conditions in the following situations:

- for a proposed significant action (whether or not a notice is given by the person proposing to take the significant action);
- for a significant action that has been taken (where the Treasurer was not given a notice before the action was taken);
- for a significant action that has been taken, where the person has given the Treasurer a notice of the action before it was taken, but the action was taken before the limitation period on taking the action expired (generally the earlier of 10 days after the end of the Treasurer's decision period or the day a no objection notification was given to the person - see section 82 of the Act for further information).

CONTENT OF THE NOTIFICATION

A no objection notification must be made in writing and specify:

- the action(s) to which the no objection notification relates;
- the foreign person(s) to which the notification relates;
 - A foreign person may be identified in the no objection notification as a foreign person that is not yet incorporated or a trustee of a trust that is not yet established. It may specify the way in which the foreign person is to be incorporated or the trust is to be established.

- the time limit for the actions covered by the notification to be taken (if the foreign person proceeds with the actions).
 - The time limit is generally 12 months. A longer time period can apply if the Treasurer is satisfied that a longer period is not contrary to the national interest.
 - If the action is not completed within the allowed timeframe, a further notification must generally be sought.

A no objection notification is generally provided by email.

TIMELINES

A no objection notification must be given before the end of 10 days after a decision is made. Where a person has submitted a notice stating that an action is proposed to be taken, the person must not take the action before 10 days after the decision period or the no objection notification being given to the person (whichever occurs first).

VARIATIONS

For information on variations to no objection notifications, see Guidance Note 40.

RECORD KEEPING

Persons are required to keep records relating to foreign investment notices and applications, including whether the person is complying with a condition in a no objection notification or an exemption certificate. For more information, see Guidance Note 45.

PENALTIES

A person who fails to comply with a no objection notification may commit an offence or be liable to a civil penalty.

FURTHER INFORMATION

Further information is available on the FIRB website at www.firb.gov.au or by contacting +61 2 6263 3795.

Important notice: This Guidance Note provides a summary of the relevant law. As this Note tries to avoid legal language wherever possible it may include some generalisations about the law. Some provisions of the law referred to have exceptions or important qualifications, not all of which may be described here. The Commonwealth does not guarantee the accuracy, currency or completeness of any information contained in this document and will not accept responsibility for any loss caused by reliance on it. Your particular circumstances must be taken into account when determining how the law applies to you. This Guidance Note is therefore not a substitute for obtaining your own legal advice.