



On 29 March 2020, the Treasurer announced that due to the impacts of the coronavirus outbreak, all monetary thresholds will be temporarily reduced to \$0, and that the FIRB will work with applicants to extend the timeframes for decision making to up to six months. Further information on these temporary changes can be found in 'Guidance Note 53: Temporary measures in response to the coronavirus', available on the FIRB website at [www.firb.gov.au](http://www.firb.gov.au).

All other guidance material, including this note on extending the statutory timeframe, should be read in light of those temporary changes. Within this note, the temporary changes may have particular impact on matters related to, but not exclusively including:

- the timeframes for decision making, noting that the FIRB will be working with some applicants to extend the timeframe to up to six months.

Where there is any inconsistency between this note and Guidance Note 53, the information in Guidance Note 53 takes precedence.

## EXTENDING THE STATUTORY DECISION PERIOD

Last update: 22 August 2016

Foreign persons are required to notify the Treasurer before taking a notifiable action. A notifiable action is a proposed action by a foreign person to acquire a direct interest in an Australian entity or Australian business that is an agribusiness, acquire a substantial interest in an Australian entity or acquire an interest in Australian land.

If the Treasurer is given a notice that a significant action is proposed to be taken, the Treasurer must make a decision within 30 days. A person must not take the action during this period unless the person is given a no objection notification.

This Guidance Note outlines the time period for the Treasurer to make a decision following notification as well as the circumstances when the decision period may be extended.

### TIME LIMIT ON MAKING ORDERS AND DECISIONS

The *Foreign Acquisitions and Takeovers Act 1975* (Act) provides a time limit on making orders and decisions. Section 77 of the Act states that the decision period for the Treasurer to make a decision following notification of a significant action is generally within 30 days of receiving the notice or within an additional period of up to 90 days from the publication of an interim order:

- The decision period starts from the day after the receipt of the correct fee.
- The decision period will end on the 30th day unless an extension is applied. The last day of the decision period will be the following business day in the Australian Capital Territory (ACT) if the 30th day falls on a weekend or a public holiday.

It may sometimes not be possible for the Treasurer to decide whether to make an order prohibiting a proposed significant action within the statutory time limit of 30 days. To ensure there is adequate time the Treasurer may make an interim order within the decision period. An interim order cannot be made for a period of more than 90 days and the period specified in the order commences on the day the order is registered on the Federal Register of Legislation.

## EXTENSIONS

If the applicant considers the decision period required for the processing of their notice is insufficient, or they do not wish for an interim order to be made, they can voluntarily extend the period.

In order to extend the period, the applicant should notify in writing that they are extending the decision period. This needs to be received prior to the completion of the 30 day period. On receipt of the written notification, the decision period will be extended for the time specified in writing. There is no limit on the number of times the decision period can be extended. However, once an interim order is made the applicant is unable to extend the decision period.

## FURTHER INFORMATION

Further information is available on the [FIRB website](#) 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.