

# **Advice on the Exposure Draft Legislation of Australia**

## **Foreign Investment Review Framework**

1. The Exposure Draft empowers the Treasurer to "call in" for review various other investment actions that would not otherwise need to be notified for review under the FIRB Act, regardless of their size or value, if the Treasurer considers that they may pose a national security concern.

We think this scope of power is too broad, and advise that some objective or quantitative limitations can be attached to it. For example, under what circumstances does the foreign investment can be regarded as a national security concern? Then the investors can determine whether they should notify their investment and get some of certainty.

2. We advise that the bill stipulates the approximate amount of time required to finish the national security test.
3. We advise that this law should not be applied retroactively to investments which has been implemented before the enforcement of the law. Especially for the "last resort" power in the exposure draft, the Treasure should not undertake a final review based on a change of the business or situation which has happened before the law goes into effect.

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