



## **National Farmers' Federation**

# **Submission to the Treasury reforms on the Foreign Investment Review Framework**

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# NFF Member Organisations





The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

# Statistics on Australian Agriculture

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Australian agriculture makes an important contribution to Australia's social, economic and environmental fabric.

## **Social >**

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There are approximately 85,000 farm businesses in Australia, 99 per cent of which are wholly Australian owned and operated.

## **Economic >**

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In 2018-19, the agricultural sector, at farm-gate, contributed 1.9 per cent to Australia's total Gross Domestic Product (GDP). The gross value of Australian farm production in 2018-19 is estimated to have reached \$62.2 billion.

## **Workplace >**

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The agriculture, forestry and fishing sector employs approximately 318,600 people, including full time (239,100) and part time employees (79,500).

Seasonal conditions affect the sector's capacity to employ. Permanent employment is the main form of employment in the sector, but more than 26 per cent of the employed workforce is casual.

## **Environmental >**

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Australian farmers are environmental stewards, owning, managing and caring for 51 per cent of Australia's land mass. Farmers are at the frontline of delivering environmental outcomes on behalf of the Australian community, with 7.4 million hectares of agricultural land set aside by Australian farmers purely for conservation/protection purposes.

In 1989, the National Farmers' Federation together with the Australian Conservation Foundation was pivotal in ensuring that the emerging Landcare movement became a national programme with bipartisan support.

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## **Executive Summary**

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The NFF welcomes the opportunity to provide comment on the Treasury reforms on the Foreign Investment Review Framework. The NFF, via its member Trade Committee, would like to put the following points forward:

- Much of the current proposed reforms extend provisions that currently apply to agriculture, and as such the NFF is supportive of these measures.
- The NFF is comfortable and supports current thresholds for agriculture and agribusinesses with respect to Foreign Investment Review Board approval.
- The NFF notes the nexus between foreign investment and trade in developing trusting and collaborative bilateral economic relationships, and any proposed reforms should continue to ensure the principles of certainty and transparency for foreign investments.
- The NFF has concerns that the proposed ‘last resort’ and ‘call in’ powers provide very broad powers to intervene and allow conditions to be placed on foreign investment after approval, which is likely to significantly increase foreign investors’ perception of Australia’s political risk.
- Any register of foreign ownership be made searchable and publicly available.

## Introduction

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Australian agriculture needs a foreign investment framework which continues to attract overseas investment and ensures the best interest of both the sector and the nation. Overly restrictive regulation could deter productivity enhancing foreign investment.

Foreign investment supports Australia's (and Australian agriculture's) economic development by permitting more capital investment than domestic savings would have otherwise allowed. Expanding the amount of capital per worker contributes to higher labour productivity, which generally leads to increased wages and output across the country. Foreign investment may also have positive spillover effects, including access to new technologies, better management practices, deeper integration with international supply chains and increased competition.

It is estimated that, for Australian agriculture to remain competitive with other agriculture-exporting nations, the industry will need to fill a \$515 billion capital shortfall between 2012 and 2050<sup>1</sup>. With industry debt already at significant levels and access to equity finance constrained, foreign direct investment will be critical in filling this gap unless major new sources of domestic investment emerge.

The value of foreign investment in Australian agriculture is relatively small. In December 2018, the stock of foreign direct investment (FDI) in Australian agriculture, forestry and fishing was just \$3.2 billion. This equates to just 0.3% of total inward FDI<sup>2</sup>.

Much of the current reforms expand on 2015 reforms to the *Foreign Acquisitions and Takeovers Act 1975* that ushered in reforms to foreign investment in agriculture and expands it to water, infrastructure and telecommunications. The NFF supports current requirements that foreign investment in agricultural land be approved by the Foreign Investment Review Board (FIRB) where the cumulative value of the investor's agricultural land holdings exceed \$15 million, and a similar threshold of \$55 million for agribusiness. The NFF continues to support the maintenance of a register for foreign ownership of agricultural land and water.

To achieve the right balance between continuing to attract foreign investment and ensuring investments remain in the nation's interest, the NFF supports measures that promote national security while providing transparency for foreign investment, including:

- Ensure that foreign investment adheres to Australian law, especially tax and competition law and complies with existing and new industry protections and/or transaction levies;
- Continue to ensure the FIRB is well-resourced to undertake clear assessment of investment proposals, and post-approval monitoring of any investment conditions;
- Harmonise the legislated timeframes for assessing foreign investment with other regulatory timeframes, including the ACCC mergers and acquisitions impact assessment; and

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<sup>1</sup> ANZ insight 2012, Greener pastures: The Global Soft Commodity Opportunity for Australia and New Zealand

<sup>2</sup> Productivity Commission 2020, Foreign Investment in Australia

- Attract future foreign investment by creating clarity in the FIRB approval process for foreign investors and by maintaining an active FIRB presence overseas.

## **The nexus between foreign investment and trade**

The NFF notes the inter-relationship between foreign investment and trade, and the importance of both in building a mutually beneficial, trusting and collaborative bilateral economic relationships.

Any reform to the foreign investment framework should ensure transparency and certainty for foreign investors, while maintaining the goals of national interest and security. To this end the NFF supports the process intended to streamline the review and approval of investments by foreign private equity, institutional fund and similar investors with passive foreign government investors.

Without appropriate checks and balances, the proposed ‘last resort’ powers pose concerns for the transparency and certainty of outcome from the foreign investment framework, significantly increasing perceptions of political risk when investing in Australia. These powers provide the Treasurer with the ability to seek divestments and place other conditions on foreign investment, after the foreign investment has been approved and the investment transaction completed.

This will have real impacts on the agricultural sector, who will increasingly be reliant on overseas capital to fund its ambitious plan for a \$100 billion agriculture industry by 2030. Increasing the perceived political risk of investing in Australia, will increase the returns potential foreign investors will expect from investments in agriculture. The practical effect of this is that for every dollar of foreign investment, Australian agriculture will have provide a greater portion of revenue to overseas investors, and this will reduce not only investment in the sector, but cashflow.

Elements of the proposed ‘call in’ powers are problematic, where it confers on the Treasurer a broad discretion and power to review investments that would otherwise not be expected to require FIRB approval, which will impact on transaction certainty for foreign investors.

## **Improving compliance and enforcement measures**

It should be noted that the NFF is not advocating that national security issues and interests be subordinate to industry development outcomes. To this end the NFF supports measures that provide tools to maintain the national interest while at the same time providing a foreign investment framework that provides transparent and certain outcomes.

The significant amendments to Australia’s current foreign compliance framework provides a good balance of ensuring Australia’s national interest and providing certainty for potential foreign investors. The proposed “standard monitoring and investigative powers”, provides a compliance mechanism for foreign investment in line with those of other business regulators. The Treasurer is also likely to be given

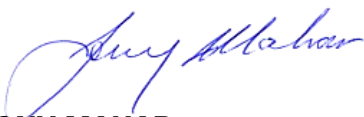


the power to accept enforceable undertakings from foreign persons to manage compliance.

Similarly the proposed expansion of the Register of Foreign Ownership provides greater transparency of foreign investment in Australia. The NFF would seek that any register be searchable and be made publicly available to garner greater community trust and transparency around foreign ownership of land.

Should you have any questions please contact Mr Ash Salardini, on 0490785390 or at [asalardini@nff.org.au](mailto:asalardini@nff.org.au).

Yours sincerely



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