



National Farmers' Federation

Foreign Investment Framework

Position Paper

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NFF Member Organisations



Australian Chicken Growers' Council Ltd



CANEGROWERS



COTTON AUSTRALIA



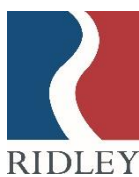
Goat Industry Council of Australia inc.



NEW SOUTH WALES IRRIGATORS' COUNCIL



RICEGROWERS' ASSOCIATION OF AUSTRALIA INC.





The National Farmers' Federation (NFF) was established in 1979 and is the peak national body representing farmers, and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities.

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

Following a restructure of the organisation in 2009, a broader cross section of the agricultural sector has been enabled to become members of the NFF, including the breadth and the length of the supply chain.

While our members address state-based 'grass roots' or commodity specific issues, the NFF's focus is representing the interests of agriculture and progressing our national and international priorities.

The NFF has for 36 years consistently engaged in policy interaction with government regarding a range of issues of importance to the sector including trade, education, environment, innovation to name a few.

The NFF is committed to advancing Australian agriculture by developing and advocating for policies that support the profitability and productivity of Australian farmers.

Statistics on Australian Agriculture

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

Social >

There are approximately 115,000 farm businesses in Australia, 99 percent of which are family owned and operated.

Each Australian farmer produces enough food each year to feed 600 people, 150 at home and 450 overseas. Australian farms produce around 93 percent of the total volume of food consumed in Australia.

Economic >

The agricultural sector, at farm-gate, contributes 2.4 percent to Australia's total Gross Domestic Product (GDP). The gross value of Australian farm production in 2013-14 was \$51 billion – a 6 percent increase from the previous financial year.

Yet this is only part of the picture. When the vital value-adding processes that food and fibre go through once they leave the farm are added in, along with the value of all economic activities supporting farm production through farm inputs, agriculture's contribution to GDP averages out at around 12 percent (over \$155 billion).

Environmental >

Australian farmers are environmental stewards, owning, managing and caring for 52 percent of Australia's land mass.

Farmers are at the frontline of delivering environmental outcomes on behalf of the Australian community, with 94 percent of Australian farmers actively undertaking natural resource management.

The NFF was a founding partner of the Landcare movement, which in 2014, celebrated its 25th anniversary.

Introduction

The National Farmers' Federation welcomes the opportunity to provide feedback on the proposed changes to Australia's foreign investment framework. The positions put forward in this submission represent the NFF's response to the draft legislation and regulations, as well as other border policy issues concerning the foreign investment framework.

The NFF has participated extensively in the '*modernising Australia's foreign investment framework*' consultation process to date, and this submission presents our final position on a number of key issues.

The NFF supports foreign investment into Australian agriculture and recognises the important role it has and will continue to play in a vibrant agriculture supply chain. To date, foreign investment has proven to be overwhelmingly positive for Australian farmers and regional communities, injecting much needed capital into the sector.

The NFF has developed a series of principles that guide its policy on foreign investment in Australian agriculture - including land, water and critical infrastructure. The principles are focussed on building confidence and transparency around foreign investment in Australian agriculture, and ensuring that there is no negative implications for the farm sector.

The NFF supports foreign investment in Australian agriculture provided that it:

- Requires adherence to all Australian laws, especially tax and competition laws;
- Does not create negative distortions in resource allocation or output returns;
- Does not undermine the existing marketing mechanism, storage or handling facilities, critical infrastructure and logistics or pricing transparency where these underpin farm gate price determination;
- Is not undertaken with the intent or outcome of reducing competition within the marketplace to the detriment of the Australian agriculture sector;
- Allows for legislated time frames for assessing foreign investment to be equitable with the regulatory times frames for consideration of domestic investors;
- Ensures compliance with existing and new industry production and/or transaction levies; and
- Does not compromise existing trade agreements and is flexible enough to acknowledge the importance of future comprehensive trade agreements to the Australian farm sector.

NFF's position on key framework issues

Table 1 contains NFF's position on key issues that have been presented in the draft legislation and regulations, as well as other issues raised throughout the broader consultation process.

Areas in which the NFF is seeking further clarification from Government

Table 2 contains issues which the NFF is seeking further clarification on from Government.

Table 1: NFF Position on Key Framework Issues

Issue	Proposed position in draft regulations	NFF proposition
Screening threshold.	<p><i>Agricultural Land</i></p> <p>The Government is proposing a screening threshold of \$15 million for agricultural land.</p> <p>It is intended that this threshold is to include cumulative purchases.</p> <p><i>Agribusiness</i></p> <p>The threshold will be set at \$55 million.</p>	<p><i>Agricultural Land</i></p> <p>The NFF supports the \$15 million cumulative threshold. Though some members oppose the threshold being cumulative, the NFF believes it is in the best interests of the sector to support a cumulative threshold.</p> <p><i>Agribusiness</i></p> <p>The NFF supports the \$55 million threshold.</p> <p>In addition, in the NFF’s view all minor acquisitions by investors including easements, leases etc. that are under 1% of the total value of their overall investment are to be exempt from Foreign Investment Review Board (FIRB) approval as they are non-consequential.</p> <p>Similarly, all minor acquisitions by a State Owned Enterprise (SOE) for easements, leases etc. that are incidental to the business and under \$50,000 are also to be exempt from FIRB approval as they are non-consequential.</p>
Screening fees.	<p>Proposed fees:</p> <ul style="list-style-type: none"> – Rural land less than \$1 million = \$5,000 	<p>The NFF does not support the proposed fee rates.</p>

Issue	Proposed position in draft regulations	NFF proposition
	<ul style="list-style-type: none"> - Rural land equal to or greater than \$1 million = \$10,000 incremental fee per \$1 million in rural land value, capped at \$100,000. - Investments in agribusinesses = \$25,000 or \$100,000 for agribusiness acquisitions where the value of the target's assets are greater than \$1 billion. 	<p>The NFF maintains its support for a full cost-recovery model, whereby investors are charged only for the cost required to screen their investment proposals.</p>
Pre-qualified screening and approval process.	N/A	<p>The NFF supports investors being afforded the option to provide a confidential business plan to the FIRB containing details of the investor's ultimate business plans, the tax structures, the marketing plans and the extent of the intended investment for a \$25,000 one-off fee.</p> <p>Once approved, acquisitions greater than \$15 million (\$50,000 for SOE) would attract a \$5,000 fee as the FIRB would only be assessing that the acquisition is not against the national interest.</p>
Definition of Agribusiness.	<p>Agribusiness is a business carried out wholly or partly in any of the following classes of the Australian and New Zealand Standard Industrial Classification Codes:</p> <p>(a) any of the classes in Division A (agriculture, forestry and fishing);</p>	<p>The NFF does not support the definition put forward in the draft regulations. The NFF does not support certain supply chain business types being automatically captured in the definition.</p>

Issue	Proposed position in draft regulations	NFF proposition
	<p>(b) any of the classes in Subdivision 11 of Division C (food product manufacturing), other than any of the following:</p> <p>(i) class 1113 (cured meat and smallgoods manufacturing);</p> <p>(ii) class 1132 (ice cream manufacturing);</p> <p>(iii) class 1162 (cereal, pasta and baking mix manufacturing);</p> <p>(iv) a class in group 117 (bakery product manufacturing);</p> <p>(v) class 1182 (confectionery manufacturing);</p> <p>(vi) a class in group 119 (other food product manufacturing).</p>	<p>Clearly farm businesses are agribusiness however the nature of farms is changing as is the relationship with stakeholders along the supply chain. There are a range of businesses that deal with agricultural commodities that are beyond the farm gate production cycle, however drawing a definitive and exclusive characterisation is difficult and possibly counter-productive in the context of the FIRB review thresholds.</p> <p>NFF is of the view that the issue of control or influence over the market by a business should be an important consideration used to determine whether the agribusiness screening threshold should apply.</p>

Table 2. Feedback wanted from Government

Issue	Comments
<p>Definition of ‘investment’ and meaning of ‘direct interest’.</p>	<p><i>Investment</i></p> <p>Current foreign investment policy is focussed on an acquisition of a direct interest in a business. However, throughout the consultation process it has been unclear as to the specific meaning of ‘investment’.</p> <p>Noting the broad range of business structures and investment types in the agricultural sector, The NFF is seeking greater clarity from government as to what ‘investment’ refers to.</p> <p><i>Direct interest</i></p> <p>The NFF is seeking clarification on the meaning of the term ‘influence’ as used in the draft regulation when determining the meaning of ‘direct interest’ in an entity or business.</p>
<p>Reinvestments by long standing foreign owned agribusiness companies in Australia.</p>	<p>The NFF is seeking clarification as to how the FIRB would handle situations whereby a long standing foreign owned agribusiness company in Australia decides to reinvest \$60 million in a new plant, infrastructure and equipment.</p>
<p>Clarification concerning \$55 Agribusiness threshold.</p>	<p>The NFF is seeking clarification as to whether the \$55 million threshold refers to the total value of the Australian business (which is the case with current \$252 million threshold) or the value of the foreign investment into an Australian business.</p>