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By electronic lodgement

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Foreign investment reforms
Submission on changes to the FIRB rules

This submission has been prepared by Herbert Smith Freehills in response to the Treasury's request for feedback on the proposed package of regulatory amendments to:

(a) the *Foreign Acquisitions and Takeovers Regulation 2015* (the **FATR**) to support reducing the regulatory burden on investors (**Tranche 1**); and

(b) associated legislative and regulatory reforms for implementation in the second half of 2022 (**Tranche 2**),

announced in Treasury's Discussion Paper dated 14 February 2022 (**Discussion Paper**),

(Tranche 1, Tranche 2 and Discussion Paper comprising the **Foreign Investment Reforms**).

Our submission on the Foreign Investment Reforms is based on our extensive experience advising leading international and domestic businesses on Australia's foreign investment regime and applications to the Foreign Investment Review Board (**FIRB**). Herbert Smith Freehills is a top tier international law firm with a market-leading corporate and capital markets practice in Australia.

Overview

Noting the importance of foreign investment to the Australian economy, it is critical that Australia's foreign investment framework strikes the right balance between protecting Australia's national interest and facilitating efficient investment of foreign capital.

The proposed changes announced in Tranche 1 and Tranche 2 are positive developments which seek to address some of the difficulties with the current legislative framework. However, in our view, further refinements would be desirable to address some of the difficulties and unintended consequences with the current regime.

Tranche 1

1.1 Moneylending exemption

(a) The new paragraph (b) of the definition of 'moneylending agreement' is a helpful clarification that a newly established entity can benefit from the exemption. However, in our view, the stipulated conditions should not limit the availability of the exemption to a new entity that would otherwise be covered by paragraph (a) based on the ordinary meaning of carrying on business. We suggest the words 'without limiting paragraph (a),' be inserted at the start of paragraph (b).

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(b) We suggest the requirements paragraph (b)(iii) are overly strict in that they require the establishing entity to be itself carrying on a moneylending business, but in the context of the type of transactions contemplated the establishing entity would not necessarily ordinarily carry on such a business itself; rather its ordinary business may include the establishment of other entity's for that purpose. We suggest the policy objectives of the new paragraph (b) would be better served by amending paragraph (b)(iii) by the addition of the following words to the end of the paragraph: 'or a business which includes the creation of persons or entities for such a purpose'. The same words should be added to the corresponding limb of paragraph (c).

(c) We note generally in relation to paragraph (c) that there is some difficulty in applying the moneylending exemption to the arrangements contemplated by this paragraph. The paragraph appears intended to facilitate moneylenders acquiring interests in secured lending transactions by acquiring rights under an existing moneylending agreement rather than by being the original lender under a moneylending agreement.

(d) However, in such a situation, the security interest that is acquired will secure the rights under the moneylending agreement that are being acquired, rather than the rights under the agreement referred to in paragraph (c). Although we consider that a purposive interpretation requires that the exemption be interpreted to extend to the rights acquired and not only the agreement to acquire them, it would be helpful if the government were to take the opportunity to clarify this by adding to the end of paragraph (c): 'or a moneylending agreement (within the meaning of paragraph (a) or (b)) under which an interest is acquired by the person or entity'.

(e) A consequential change should be made to Section 27(1)(b)(i) of the FATR so that it reads:

> "…
>
> *(b) the entity that holds or acquires the interest is:*
>
> *(i) the entity (the **first entity**) that entered <u>into or acquired an interest under</u> the money lending agreement; or*
>
> *(ii)…"*

(f) For completeness, in our view, a foreign moneylender should not be required to seek FIRB approval in relation to the enforcement of securities in the ordinary course, even if the enforcement involves a national security business. Such a requirement would significantly undermine the utility of the exemption, as lenders could not have confidence that they would be able to enforce their security.

1.2 Australian media business

We welcome the proposed:

(a) narrowing of the definition of 'media business', particularly in digital-only media business; and

(b) raising of the control threshold from 5% to a direct interest (of 10% or more or a position to influence).

1.3 Unlisted land entities

We also welcome the proposed changes to raise the control threshold for unlisted Australian land entities from 5% to 10%.

1.4 Acquisitions of interests in securities where the proportionate shareholding does not increase post-acquisition and rights issue definition amendment

(a) The proposed changes to clarify that an acquisition of securities which does not increase the proportionate shareholding of the relevant foreign investor is a welcome change. From a policy perspective, in our view, a foreign investor should not need to obtain FIRB approval in relation to:

(1) a further capitalisation of its wholly-owned subsidiary;

(2) a contribution of additional capital to an investment vehicle to maintain its existing ownership interest; or

(3) a rights issue in respect of an entity in which it has an equity interest.

(b) However, there are a number of aspects to the proposed changes to section 41(2) of the FATR that we consider should be revisited.

(c) The proposed definition of 'rights issue' only captures Australian target entities. In our view, a rights issue is a well understood commercial concept and defining it by reference to the Corporations Act 2001 (Cth) is overly restrictive and it would have significant, unintended consequences. For example, it would mean that offshore issuances which are in all respects equivalent to a rights issue would not be captured. Accordingly, in our view, no change should be made to section 41(a)(i) or if a change is made it should clearly capture offshore issuances which are in all respects equivalent to a rights issue.

(d) We also consider that the knowledge component in the proposed amendment to section 41(2)(c)(ii) of the FATR is problematic, especially in circumstances where there are 100 as opposed to three (3) shareholders – for issuances not captured by the exception in section 41(2)(a). There may be circumstances where one shareholder exercises their rights and another shareholder does not exercise their rights and as a result, the interest of the first mentioned shareholder increases slightly (i.e. up to 5%). In our view, FIRB approval should not be required for a shareholder participating in such an issuance.

1.5 Foreign custodian corporations

(a) Custodians are a crucial service provider in the financial services sector and also play an important role in holding shares in ASX listed companies on behalf of a range of investors who are unable to hold them directly.

(b) The changes to subsection 30(1)(d) of the FATR have the effect that if a foreign custodian holds a legal interest for any foreign beneficiaries, the custodian is unable to rely on the exemption.

(c) In practice, many custodians in the Australian market are technically foreign persons and will hold interests for a mix of Australian and foreign beneficiaries. However, foreign custodians typically do not hold any economic interest or exercise voting rights (other than on instructions from beneficiaries) in the underlying assets and accordingly from a policy perspective, there is no reason for the exemption not to apply to them. Indeed, any underlying foreign beneficiaries are still subject to the foreign investment regime in their own right and will need to make their own notifications if the relevant thresholds are met.

(d) To impose the same requirement on a foreign custodian corporation would be overly burdensome where they are effectively merely acting as a bare trustee. Accordingly, in our view, the provision should not be amended (other than to include the reference to a right covered by the new proposed subsection (2)).

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Tranche 2

1 Areas to reduce regulatory burden

1.1 What are the types of less-sensitive transactions that could be exempted from foreign investment screening without compromising national interest, including how this would be best achieved?

(a) The proposal to exempt less-sensitive transactions from foreign investment screening would be well received in the industry, particularly in respect of low-risk and routine transactions we often advise clients about. In our experience, a routine transaction would include, offshore internal reorganisations affecting Australian subsidiaries, where there is no change in ultimate beneficial ownership.

(b) National security would not be compromised if low-risk and routine transactions must be notified but not automatically screened. In our view, this would strike an appropriate balance between reducing the regulatory burden on investors while maintaining appropriate safeguards.

Internal Reorganisations

(c) We consider that the internal reorganisations of foreign persons, where the ultimate beneficial ownership does not change, is likely to impose a minimal risk and therefore should not be subject to FIRB approval.

(d) Whilst all foreign investors understand the need for foreign investment controls, the requirement of preparing a FIRB application and seeking approval seems to be onerous and unnecessary, where there is no change in the nature or extent of that person's interest in Australian assets. The requirement for FIRB approval subjects low-risk routine transactions to increased costs, complexities and delays.

(e) Noting that tax leakage may be an issue to consider in relation to an internal restructure, we consider that any tax concerns arising from internal restructures for foreign entities should be regulated through the usual tax system, on a non-discriminatory basis with domestic entities, rather than through the foreign investment system.

Increase in shareholding where already in a position of control

(f) Currently, it is a notifiable action for a foreign person to increase their interest in an entity even where they may already be in a position of control of the entity. One opportunity for simplification may be, once an investor is already in a position of control of an entity (i.e. above 50%), to exempt small changes (of say less than 10%) in holding from requiring a no objection notification. This can be an exemption or otherwise just a notification requirement (in the true sense i.e. a notification without requiring approval or to wait for a no objection notice).

Agricultural land investments

(g) One specific example is the cumbersome 'open and transparent sale process' requirements for agricultural land investments. This was originally introduced to ensure that Australian investors were provided with a fair opportunity to acquire agricultural land prior to this being acquired by foreign investors (noting a historical lack of corporate investment in agribusiness). In our view, the landscape for agricultural investment in Australia has significantly changed with substantial investment being undertaken by Australian corporates and family office investors, in addition to continued foreign investment. In these circumstances, the utility of the 'open and transparent sale' process should be revisited to assess whether this is still necessary and appropriate.

1.2 How can the treatment of passive-style investments under the framework be improved?

Please see section 3.2 below, regarding our suggestions on clarifying the application of the passive foreign government investor (**FGI**) exemption certificate.

1.3 Other opportunities to simplify Australia's foreign investment framework or reduce regulatory burden while maintaining appropriate safeguards, in line with the Government's earlier reform packages?

Decision timeline certainty

(a) In our view, there is currently significant uncertainty as to the time period that FIRB will require for FIRB applications and this is creating significant challenges for parties in M&A transactions, particularly those of an international scale where other offshore regulatory approvals are also being managed.

(b) It is acknowledged that some FIRB applications are more complicated than others and therefore will necessarily take more time to assess and determine. In these circumstances, we consider that it would be useful for FIRB to consider an initial triage process, which involves an experienced FIRB case officer providing an accurate assessment of how long the FIRB application will realistically take to be assessed and determined. In our experience, having a realistic view of the overall assessment timeline at the outset (rather than repeated requests to seek voluntary extensions later in the process), would assist investors in managing integration and transitional planning risks and would likely reduce overall deal costs.

(c) For routine FIRB applications, our expectation would be that FIRB could assess such applications within the usual statutory decision period. For more complex FIRB applications, it might be that FIRB considers that a period of 2-4 months may be necessary to assess and determine the FIRB application. If FIRB was able to provide some early and accurate guidance on all FIRB applications, this would be a significant help to managing M&A transactions, particularly those which are multi-jurisdictional.

(d) From a regulatory reputational perspective, it is also important that FIRB is not out of step with other similar foreign investment regulators in relation to decision timelines. Unfortunately, we have been involved in certain FIRB applications which have taken 6 months or more to assess and this type of extended assessment deadline (when coupled with high FIRB application fees), does not create a positive experience for jurisdiction agnostic capital. This issue is particularly relevant for offshore acquisitions, where the Australian portion of the M&A may be an immaterial portion, which triggers a FIRB approval requirement because of the nature of the target business (e.g. a national security business).

Relevant agreement country investor thresholds

(e) As part of the amendments which took effect on 1 January 2021, a new section 52(3)(a)(iii) of the FATR was introduced which had the effect of making investments in Australian land entities which held mining or production tenements worth more than 10% of their assets, A$0 threshold acquisitions.

(f) We understand that this amendment was introduced to ensure that agreement country investors could not avail themselves of a higher threshold for acquiring Australian land entities which predominantly hold mining or production tenements than they would have access to if they were to acquire those tenements directly.

(g) This change has, however, negatively impacted on relevant agreement country investors in a way which is inconsistent with their direct acquisition rights. If a relevant agreement investor is to acquire mining or production tenements directly, the current threshold is A$1,250 million versus the A$0 threshold for acquiring an entity which is rich in mining or production tenements.

(h) Interests in mining tenements, in particular, are commonly transferred through the sale of the company that owns them, which are often set up as special purpose vehicles to hold mining tenements in a particular project. For greenfield projects and development-stage projects with limited assets other than mining tenements (i.e. pre-construction), it would be extremely common for those entities to be classified as Australian land entities, in which case they would almost invariably have 10% of their assets as mining or production tenements and a A$0 threshold would apply to the acquisition of those entities, notwithstanding that they could enter into an asset sale for all of the assets that comprise the business with the same buyer without requiring FIRB approval.

(i) This inconsistency in the legislation should be removed as a matter of urgency.

Thresholds for foreign person Australian entities

(j) As noted in previous submissions, notwithstanding that agreement country investors and relevant agreement country investors can avail themselves of much higher thresholds than other foreign persons, these same thresholds do not apply to wholly-owned Australian subsidiaries of those investors.

(k) The exclusion of Australian entities from the definitions of agreement country investors and relevant agreement country investors is extremely limiting. There does not appear to be a reasonable policy basis for excluding those entities from the higher thresholds and this means that the higher thresholds which are designed to encourage investments from certain FTA partner countries cannot practically be accessed.

Deeming provision in section 18(3) of the FATA

(l) Section 18(3) of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**) is a broad deeming provision that provides that any potential beneficiary under a discretionary trust is taken to hold beneficial interest in the maximum percentage that can be distributed to that beneficiary. It is very common for Australian discretionary trusts to have an extensive and not necessarily identifiable category of potential beneficiaries.

(m) If any of these potential beneficiaries is technically a foreign person (for example, because they live overseas even if they have never received a distribution from the trust), the trustee of the trust is deemed to be a foreign person, and actions taken by the trustee may be screened.

(n) Accordingly, section 18(3) has the effect of making many Australian family trusts and family offices technically foreign – even where no foreign person has any influence or control over the activities of the trust or assets owned by the trust and in many cases, where a foreign beneficiary has not received any distributions, or received only a small amount of distributions. This is an absurd consequence of the deeming provision and we do not see the policy justification for this position. It also adds to the burden of FIRB having to process applications from entities that are essentially Australian but are deemed to be technically foreign.

(o) In our view, the deeming provision should be removed from the FATA.

2 Investments requiring greater scrutiny

2.1 Whether foreign investors should be required to obtain foreign investment approval before acquiring rural water entitlements, and if so, how this new policy should be designed?

In our view, foreign investors should not be required to obtain foreign investment approval before acquiring rural water entitlements.

2.2 Whether there are other types of foreign investment that warrant greater scrutiny under Australia's foreign investment framework?

Australia's foreign investment framework has been substantially amended (and strengthened) in the past 18 months through a rewrite of the relevant legislation and regulations. There is significant complexity in any process involving the substantial re-writing of a legislative regime and inevitably a process to refine and amend the legislative regime, to address glitches and unintended consequences.

Noting the current investment environment and the fact that foreign investors are still coming to terms with Australia's revised foreign investment framework, it is our view that the Government should not be introducing further changes in relation to other types of foreign investment at this time. Rather, this issue should be revisited in the next 12-18 months as the Foreign Investment Reforms are bedded down.

3 Exemption certificates

3.1 Whether exemption certificates are striking an appropriate balance between facilitating investment and protecting the national interest, including whether the scope, timeframes and financial limits for exemption certificates are appropriately targeted?

(a) In our experience, the current exemption certificate framework does not work as effectively or efficiently as it should. Exemption certificates should be processed more quickly, allow for greater flexibility, and there should be fewer and more tailored conditions on FIRB approvals (i.e. less conditions around monetary limits for non-sensitive acquisitions).

(b) It appears to have been common place for broad conditions on exemption certificates to be applied, without adequate regard to the specific circumstances of the FIRB application. This may be, at least in part, a result of uncertainty as to how certain provisions will be interpreted and applied in practice by FIRB. It may also be dictated in part by the familiarity of the relevant FIRB case officer with the industry to which the FIRB application relates.

(c) It is also worth noting that delays in FIRB applications being processed further exacerbates deal uncertainty and continues to cause angst amongst investors. In these circumstances, there is the risk that inappropriate conditions are being taken up at the last minute by investors due to the delays already incurred.

(d) It is therefore important for FIRB:

(1) to process exemption certificates in a more timely manner;

(2) to practically assess what conditions may be imposed on any FIRB approval to ensure that these are commercially feasible and do not place undue burden on investors going forward;

(3) to be more flexible in its setting of aggregate limits and per transaction limits for exemption certificates; and

(4) the suitability and experience of the FIRB case worker assigned to each FIRB application.

3.2 Whether there are other types of exemption mechanisms that could be valuable for investors?

(a) Conceptually, the proposal to introduce investor-specific exemption certificates is an excellent proposal. We expect tailoring approvals to the specific circumstances of investors will be of particular benefit to those investors with a significant program of investments in Australia, particularly financial investors in the business of making investments.

(b) In particular, we think that an investor- specific exemption certificate would provide more breadth and flexibility that the current exemption certificate regime if it involves making an assessment of the particular investor and whether that investor posed a risk to national security, and in circumstances where it is concluded that they do not pose such a risk, to treat them as not a 'foreign person' (at least for a period of time) so that actions undertaken by them would not need to go through the screening process. This would be particularly useful for foreign investors who are well known to FIRB and make a large number of acquisitions or investors who are only taken to be foreign due to technical reasons.

(c) The current drafting focuses on an identifiable investor undertaking direct investments. This scope is of limited practical utility in circumstances where investment funds regularly use investments structures that involve: (1) the aggregation of a number of feeder funds into intermediate vehicles which in turn invest into Australian entities; or (2) upstream investments whereby new investors (some of which are FGIs) are brought in, after an investment fund has already made an acquisition (i.e. a national security business). In our view, exemption certificates should be extended to include these circumstances. This could be usefully clarified in a FIRB Guidance Note or an amendment to the FATR.

(d) In relation to the exemption certificate pathway for passive FGIs, it would be of particular benefit to clarify the scope of the exemption in characterising an otherwise FGI vehicle as, a non-FGI foreign person (**Exempt FGI Vehicle**). For the exemption to be useful to private equity (**PE**) investors, it should be clarified that an Exempt FGI Vehicle will be treated as a non-FGI foreign person for all purposes under the FATA and FATR, including the tracing provisions in section 19 of the FATA. This clarification would make it clear that where an Exempt FGI Vehicle holds an interest in a downstream entity, that Exempt FGI Vehicle would be classified as a 'foreign person' but not an FGI, in determining whether the downstream entity itself is an FGI. There are two examples of why this clarification is necessary:

(1) Firstly, PE investors regularly use investment structures that involve the aggregation of a number of feeder funds into intermediate vehicles which in turn invest into Australian entities. If the scope of the exemption certificate is limited to the Exempt FGI Vehicle alone, the exemption certificate would have limited utility to PE investors who regularly aggregate sources of capital from multiple funds on their Australian investments because:

(A) where a PE investor is aggregating capital from multiple funds, that PE investor will typically form a new intermediate aggregation vehicle (**Intermediate SPV**) into which each of the underlying funds will hold an interest;

(B) the Intermediate SPV would in turn acquire the interest in the Australian entity(s) or asset(s) either directly or via a number of interposed vehicles, all of which would typically be wholly owned by the Intermediate SPV;

(C) if the exemption certificate applies to the Exempt FGI Vehicle(s) alone, only direct acquisitions by those Exempt FGI Vehicles of Australian entities or assets would be exempt. It is not clear that an Intermediate SPV, which aggregates capital from a number of different Exempt FGI Vehicles, would also benefit from the exemption certificate, meaning that although its underlying investors are each exempt, the newly formed Intermediate SPV would technically require FIRB approval.

(2) Secondly, PE investors regularly utilise roll-up/bolt-on strategies which involve a portfolio company being used as a platform for further growth in a particular industry. A similar issue arises in this context because if the scope of the exemption certificate is limited to the Exempt FGI Vehicle(s) alone, the portfolio company into which an Exempt FGI has a substantial interest, would itself be considered an FGI (notwithstanding that its substantial holder is exempt). In turn, this would mean that any roll-up or bolt-on acquisitions done via the portfolio company would be subject to the lower thresholds applicable to FGIs.

4 Compliance and enforcement

4.1 Whether the new compliance and enforcement powers ensure proportionate and scalable responses are available for any contravention?

(a) We consider that the breadth and scale of the powers and potential penalties that may be imposed under Australia's foreign investment framework are disproportionate in nature and heavy handed.

(b) In our experience, the resolution of unintentional breaches in good faith of the foreign investment framework has been reasonable and proportionate thus far, notwithstanding the possibility of disproportionate and heavy-handed penalties being available. However, the imbalance between the potential contravention and the potential enforcement powers that could be exercised results in huge disincentives for foreign investors to invest in Australia, particularly if those foreign investors have jurisdiction agnostic capital to invest.

4.2 Whether existing reporting requirements, as specified in conditions, could be improved/streamlined?

(a) We are regularly receiving feedback from foreign investors that are subject to FIRB reporting requirements, as part of a FIRB approval, that the existing reporting requirements are onerous and unduly time consuming. This can particularly be the case in relation to specific conditions imposed on a foreign investor which may have unintended and very broad obligations.

(b) FIRB needs to consider the appropriateness of the existing reporting requirements and conditions to ensure fitness for purpose and proportionality. For example, we consider that foreign investors should only be required to report on an annual basis (with an exception to immediately report certain key fundamental changes), rather than on a transaction-by-transaction basis, in relation to exemption certificates.

5 Overall operation

To help inform the Government's consideration of further foreign investment reform options, the Treasury is interested in hearing from stakeholders with regards to whether there are any other ways to improve the overall design and operation of Australia's foreign investment framework.

5.1 Refund of FIRB Application Fee

(a) In our experience, with vendors of Australian assets regularly requiring all foreign investor bidders to seek FIRB approval to manage deal certainty in a competitive auction process, the high quantum of the FIRB application fees and the delay in processing FIRB applications, are having adverse consequences. These adverse consequences include the following:

(1) unless and until they are the preferred bidder, bidders will not apply to FIRB, increasing deal uncertainty for both the buyer and seller and giving rise to considerable delays in completion and uncertainty for those caught up in the transaction (e.g. staff, customers, suppliers etc.); and

(2) creating further disincentives for marginally interested bidders to participate in a competitive auction given that they will be perceived at a disadvantage if they do not obtain FIRB approval, with the consequence being that vendors are sometimes left with no foreign bidders.

(b) We consider that some form of refund (partial or full) of FIRB application fees should be offered to foreign investors taking into consideration a variety of factors, including:

(1) the number of bidders in the relevant competitive sale process;

(2) whether the foreign investor is ultimately the successful bidder; and

(3) if the foreign investor is not the successful bidder, how far progressed their FIRB application is.

(c) It is also worth noting that in practice, offering a refund will not necessarily cause a material loss of revenue for Treasury. Importantly, it is also our view that the availability of a FIRB application fee refund, in relation to a failed competitive bid, is likely to attract increased participation and FIRB applications in competitive auctions going forward.

(d) We consider that the appropriate framework to provide more detailed guidance and clarification in relation to an applicant receiving a refund in a competitive auction situation, is through the official Guidance Notes.

(e) As noted in previous submissions on the proposed changes for Australia's foreign investment regime, to maintain confidence in the system and Australia as an attractive investment destination for jurisdiction agnostic capital, foreign investors expect the substantial FIRB application fees to be commensurate with an efficient and effective review process. This means ensuring that the FIRB application fee revenue is re-invested into FIRB, and appropriately senior FIRB case officers are running all large-scale FIRB applications with sufficient resourcing support.

5.2 Guidance Notes

(a) The guidance notes that were introduced together with the amendments taking effect on 1 January 2021 are undoubtedly the most comprehensive that FIRB has produced and very helpful to investors. However, whilst we appreciate that the guidance notes are intended as summaries, we are aware of certain instances where inaccuracies or incomplete information in guidance notes have caused confusion amongst investors.

(b) By way of example, the thresholds which apply in respect of Australian land corporations are not clearly set out in Guidance Note 7. A plain reading of that Guidance Note would give the impression that agreement country investors (which is broader than relevant agreement country investors) are not subject to the A$0 threshold which applies to the acquisition of Australian land entities which hold residential land, vacant commercial land or mining or production tenements worth more than 10% of their assets. In fact, FATR 52(1)(e) and 52(3) do not provide for this higher threshold.

(c) The monetary thresholds page within the guidance section of the FIRB website has also given rise to two specific concerns amongst investors. Firstly, it does not include land entities in the thresholds for land investments, which gives the false impression that the same threshold applies as to the type of land the land entity holds. Secondly, when referring to the thresholds available to FTA partners the footnotes state "[t]o be eligible for these thresholds, the immediate acquirer must be an entity formed in one of these countries. An investor acquiring through a subsidiary incorporated in another jurisdiction will be subject to the relevant thresholds of the subsidiary's jurisdiction."

(d) In fact, to qualify for these thresholds, an entity must be an "enterprise" of that country. In accordance with section 7 of the FATR, to be an enterprise of the country it must have substantial business activities in that country if it is owned or controlled by one or more persons from another country.

(e) The monetary threshold page gives the incorrect impression that the applicable monetary thresholds are determined solely by the jurisdiction of incorporation of the relevant acquiring investor – which is plainly not the case.

Yours sincerely

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