

Reforms to Foreign Investor Framework – Register of Foreign Ownership of Australian Assets

Solicitors acting for foreign investors need to be familiar with the broadened registration obligations which commenced on 1 July 2023

Schedule 3 to The *Foreign Investment Reform (Protecting Australia's National Security) Act 2020* establishes a new register - [the Register of Foreign Ownership of Australian Assets](#) which expands on assets to be registered and replaces existing foreign investment registers (relating to agricultural and residential land and water interests).

Scope of the New Register

Broadly, the new regime requires registration **within 30 days** where a foreign person acquires:

- ▼ Land - all legal interests are to be registered. Importantly this includes commercial land (regardless of value and irrespective of whether or not FIRB approval is required)
- ▼ Mining and production tenements and exploration tenements
- ▼ Rights in water entitlements as set out in the current Register of Foreign Ownership of Water or Agricultural Land Act 2015
- ▼ Certain business or entity interests notified or notifiable under the FATA

Other registration requirements include:

- ▼ Becoming or ceasing to be a foreign person whilst holding a registerable interest
- ▼ Change in nature of interest in land
- ▼ Disposing of a registerable interest
- ▼ Upon the death of the foreign person or wind up of the corporation

When to register and penalties for failing to register

Registration is required within 30 days of the registerable event day (usually the day of settlement for land acquisitions). Penalties for failing to register are significant; a civil penalty of 250 penalty units (currently \$68,750) or an infringement notice -Tier 1 (12 penalty units) and Tier 2 (60 penalty units).

How to register

Foreign investors and their representatives need to use the ATO's Online Services. Both foreign investors and their representatives need a myGovID to access this service.

Solicitors may be appointed as representatives for foreign investor clients, and should ensure the retainer makes it clear who will be responsible for registration.

It is well worth taking the time to familiarise yourself with these [changes](#) and remember, if you intend to act as a representative, you'll need to set up a [myGovID](#) (if you don't already have one).

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