

Martin Joy | Head of Public Policy | Communications and Public Affairs

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Treasury  
Langton Crescent  
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By email: [FIRBstakeholders@treasury.gov.au](mailto:FIRBstakeholders@treasury.gov.au)

Dear Sir or Madam

Thank you for the opportunity to comment on the exposure drafts of the *Foreign Investment Reform (Protecting Australia's National Security) Regulations 2020* and the *Takeovers Fees Imposition Regulations 2020* (the **Draft Regulations**).

Our comment concerns the effect of the Draft Regulations in inserting a new paragraph (c) into the 'moneylender' exemption in section 27(1) of the *Foreign Acquisitions and Takeovers Regulation 2015*.

We understand that this proposal could require offshore lenders to seek approval from the Foreign Investment Review Board (the **FIRB**) before taking or enforcing security over the interests listed in the new paragraph (c). This would include situations where those lenders participate in syndicated lending and capital markets, including by acquiring debt interests on the secondary market.

ANZ is a significant participant and intermediary in Australia's syndicated secured lending and capital markets. We are concerned that the proposal, without amendment, could impact the attractiveness of these markets to offshore lenders and investors. Some of these participants may be dissuaded from participating in the markets due to the time and cost of obtaining the FIRB's approval to participate in financings. If this occurs, then we could have greater difficulty arranging finance for our customers.

We understand that the Asia Pacific Loan Market Association has suggested that the new paragraph (c) could be amended so that the requirement to obtain approval applies when an interest is acquired by way of enforcement of a security interest, but not when the security interest is granted. This would seem an appropriate way of ensuring that approval is obtained before any offshore lender or investor is in a position to control the relevant interest, while not imposing any significant disincentive on participating in Australia's financing markets.

We would welcome further discussions with Treasury on this point as it seeks to finalise the Draft Regulations.

Yours sincerely



**Martin Joy**  
**Head of Public Policy**