

## ***FIRB regulations made to implement \$0 threshold for FIRB approval in response to COVID-19***

Source: [www.legislation.gov.au](http://www.legislation.gov.au)

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### **Abstract:**

On 29 March 2020, the Federal Treasurer announced a temporary reduction in the monetary screening threshold for all Foreign Investment Review Board (FIRB) approvals to nil (\$0), as discussed in our previous legal update. The *Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020* (Cth) (FIRB Regulations) have been made to implement this nil (\$0) threshold. FIRB has also released a guidance note, Temporary measures in response to the coronavirus [GN53], regarding the new measures.

### Key points:

- The FIRB Regulations apply to actions taken on or after 10.30pm AEDT on 29 May 2020 (the announcement time), unless the action is covered by an agreement entered into before that time. FIRB has indicated that in determining whether an agreement has been reached before the announcement time, the agreement will need to be one where the negotiations have been completed and the parties have arrived at a mutual understanding of all the essential elements of their bargain.
- FIRB will work with existing and new applicants to extend statutory timeframes for reviewing applications from 30 days to up to six months. FIRB will prioritise urgent applications for investments that “protect and support Australian businesses and Australian jobs”. The cover letter for the application to FIRB should specifically address any claim for the application to be prioritised.
- Fees will be payable for all investment that is now required to be screened (other than where the fee payable is prescribed as nil). However, the Treasurer will consider refunding a fee paid where the measures being implemented globally, and in Australia by governments, businesses and individuals in relation to the coronavirus pandemic have resulted in delays to, or deferrals of, investment decisions that are currently the subject of a foreign investment application, and the applicant wishes to withdraw that application.