



# Approval Process for Investment in Australian Entities

Approved by the board on 12 September 2017

# Zeta Resources Limited and its subsidiaries (the Company)

## Approval Process for Investment in Australian Entities

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### 1. Introduction

This policy note sets out the Company's processes regarding compliance with the Australian *Foreign Acquisitions and Takeovers Act 1975* ("Act") and the Foreign Investment Review Board process that may be required to obtain approval from the Australian Treasurer ("FIRB Approval") with regards to investment in Australia. It also incorporates amendments made to the *Foreign Acquisitions and Takeovers Regulations on 1 July 2017*. This policy is separate from, and additional to, the legal constraints imposed by applicable law, the *Companies Act 1981* of Bermuda, the *Corporations Act 2001 (Cth)*, to the extent it applies to the Company, and the ASX Listing Rules ("Applicable Laws").

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### 2. Scope of the Policy

- 2.1** This policy applies to all directors, executives, employees, contractors, consultants and advisors (together "Designated Persons") of the Company and its subsidiaries.
- 2.2** In this policy "Key Management Personnel" means a director, executive or senior manager of the Company, or such other person who is "key management personnel" within the meaning of Accounting Standard AASB 124.
- 2.3** This policy applies to all direct investment made in Australian entities to determine if FIRB approval is required when an investment is made and that the Act is adhered to.
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### 3. Purpose of the Policy

- 3.1** This policy sets out the circumstances in which FIRB approval may be required with regards to direct investment in Australia and with the objective that no Designated Person will contravene the requirements of the Applicable Laws.
- 3.2** The purpose of this policy is to:
- (a) ensure that the Designated Persons adhere to high ethical and legal standards;
  - (b) preserve market confidence in the integrity of dealings in Australian investment opportunities; and
  - (c) ensure the reputation of the Company is maintained.
- 3.3** This policy is not designed to prohibit investment in Australian entities but does recognise that there may be times when FIRB approval is required to be implemented prior to making a direct investment in an Australian entity by obtaining a *no objections notification* (as defined in sections 74 and 75 of the Act). This policy provides guidance to Designated Persons as to the times when Designated Persons may be required to obtain FIRB Approval with regards to direct investments in Australian entities.
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### 4. Outline of Requirements

#### 4.1 FIRB Approval Determination

The following types of investments that meet the relevant monetary thresholds set out in point 4.2 below will require FIRB Approval:

- (a) Acquisition of a substantial interest (at least 20%) in an Australian entity.
- (b) Acquisition of a direct interest in an agribusiness.
- (c) Investment of at least 5% in an Australian media business.
- (d) Acquisition of an interest in Australian agricultural land.
- (e) Acquisition of an interest in developed commercial land.
- (f) Acquisition of an interest in residential land or vacant commercial land.
- (g) Acquisition of an interest in a mining or production tenement. Refer FIRB [Guidance Note 24](#) for more information.

(h) Acquisition of an interest of at least 10% in securities in a mining, production or exploration entity.

#### 4.2 Relevant Monetary Thresholds

The monetary thresholds are indexed annually on 1 January each year (except for the \$15 million agricultural land threshold and the \$50 million land threshold for Singapore and Thailand investors, which are not indexed). Current monetary thresholds can be established by accessing the FIRB website at the address below: <https://firb.gov.au/exemption-thresholds/monetary-thresholds/>

#### 4.3 Calculation of Investment Values

With regards to calculating the monetary value of an investment (including consideration, asset values and listed securities value) to be made in Australia to determine if the relevant monetary threshold has been met and therefore requiring FIRB approval for the transaction the Foreign Investment Review Board has a guidance note that can be accessed at the web address below:

<https://firb.gov.au/resources/guidance/gn33/>

#### 4.4 Exemptions

Certain persons and acquisitions are exempt from the requirement to notify and receive a *no objections notification* under the Act.

It should be determined whether the proposed acquisition is exempt and if in doubt, seek legal advice. Strict penalties (including civil and criminal penalties and disposal orders) may apply for breaches of Australia's foreign investment framework.

##### (a) Residential Real Estate

Persons that meet certain criteria do not need foreign investment approval before purchasing residential real estate in Australia. This includes:

- an Australian citizen (regardless of whether they are ordinarily resident in Australia or not);
- a New Zealand citizen;
- the holder of an Australian permanent visa; or
- foreign persons purchasing property as joint tenants with their Australian citizen spouse, New Zealand citizen spouse, or Australian permanent resident spouse.

Foreign persons, regardless of citizenship or residency, do not require foreign investment approval to acquire an interest in residential real estate that is:

- a new dwelling purchased from a developer that holds a new dwelling exemption certificate that allows the developer to sell dwellings in the specified development to foreign persons.
- an aged care facility, retirement village or certain student accommodation provided the interest is not above the relevant threshold. For more information, see [Guidance Note 14](#)
- a time share scheme where the foreign person's total entitlement (including any associates) to access the land is no more than four weeks in any year;
- acquired by will or devolution of law;
- acquired directly from the Commonwealth, a State, a Territory, or local governing body, or an entity wholly owned by the Commonwealth, a State, a Territory or a local governing body; and
- an interest in certain residential real estate in designated Integrated Tourism Resorts.

Further exemptions may apply. Refer FIRB [Guidance Note 4](#) for more information.

##### (b) Other acquisitions

Exemptions may apply for other acquisitions in certain circumstances, including for:

- moneylending agreements as described under section 27 of the [Foreign Acquisitions and Takeovers Regulations 2015](#);
- acquisitions acquired by will or devolution of law;
- certain interests held by foreign custodian corporations;

- land acquired from government;
- certain investments in financial sector companies;
- compulsory acquisitions and compulsory buy-outs;
- acquisitions in Australian land by persons with a close connection to Australia;
- acquisitions in Australian land by certain funds and schemes;
- acquisitions in Australian land for diplomatic or consular purposes;
- acquisitions in listed or unlisted Australian land entities below a certain threshold;
- acquisitions of certain easements; or
- acquisitions covered by an exemption certificate.

Exemptions are detailed under the [Foreign Acquisitions and Takeovers Regulations 2015](#).

#### **4.5 Business Exemption Certificate**

On 1 July 2017, the Foreign Acquisitions and Takeovers Regulation introduced the business exemption certificate allowing foreign investors to seek broad pre-approval for programs of acquisitions of interests in the assets of an Australian business and/or securities in an entity, including interests acquired through the business of underwriting.

Further information can be found under [Guidance Note 26](#).

#### **4.6 Obtaining FIRB Approval**

Once it has been determined that FIRB Approval is required for a proposed investment an [application](#) can be submitted for approval to the Australian Treasurer along with any prescribed fee. Please note a no objection notification **must** be obtained prior to the investment being made.

In general, once an application has been submitted and the fee paid the Australian Treasurer has 30 days to review the investment proposal and make a decision.

Once FIRB Approval has been received (with or without conditions) it is valid for that specific investment for a period of 12 months.

### **5. Questions / Further Information**

If you have any questions or need further information on how to comply with this policy, please contact the Company Secretary.

### **6. Consequences of Breach**

Strict compliance with this policy is mandatory for all persons covered under this policy. Breaches of this policy may damage the Company's reputation in the investment community and undermine confidence in the market for Company Securities. Accordingly, breaches will be taken very seriously by the Company and will be subject to disciplinary action, including possible termination of a person's employment or appointment.

Failure to follow this policy in obtaining prior approval of an investment could result in not only the delay of the transaction but could also result in the transaction being unwound or substantial fines being imposed, and in serious circumstances the legislation also provides for imprisonment.