



Foreign Acquisitions and Takeovers Amendment (Interfunding Exemption) Regulations 2024

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 5 December 2024

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Dr Jim Chalmers
Treasurer

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1 Name

This instrument is the *Foreign Acquisitions and Takeovers Amendment (Interfunding Exemption) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	10 December 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Foreign Acquisitions and Takeovers Act 1975*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Foreign Acquisitions and Takeovers Regulation 2015

1 Section 5

Insert:

registered scheme has the same meaning as in the *Corporations Act 2001*.

registrable superannuation entity has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

related body corporate has the same meaning as in the *Corporations Act 2001*.

responsible entity of a registered scheme has the same meaning as in the *Corporations Act 2001*.

RSE licensee has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

2 After section 40

Insert:

40A Acquisitions of interests in registered schemes or registered superannuation entities—interfunding

- (1) This section applies for the following provisions:
 - (a) section 55B of the Act (meaning of *notifiable national security action*);
 - (b) Division 2 of Part 2 of the Act (meaning of *significant action*);
 - (c) Division 3 of Part 2 of the Act (meaning of *notifiable action*);
 - (d) any other provision of the Act or the regulations to the extent that it relates to any of those provisions.
- (2) The provisions specified in subsection (1) do not apply in relation to an acquisition if:
 - (a) the acquisition is made by a corporation (the *acquirer*) in its capacity as:
 - (i) the responsible entity of a registered scheme (the *acquiring fund*); or
 - (ii) the RSE licensee of a registrable superannuation entity (also the *acquiring fund*); and
 - (b) the acquisition is of an interest in securities in:
 - (i) a registered scheme (the *target fund*); or
 - (ii) a registrable superannuation entity (also the *target fund*); and
 - (c) any of the following apply:
 - (i) the acquisition is made from the acquirer (in a capacity other than the capacity mentioned in paragraph (a));
 - (ii) the acquisition is made from a related body corporate of the acquirer;
 - (iii) the responsible entity or the RSE licensee (as the case requires) of the target fund is a related body corporate of the acquirer; and
 - (d) the acquisition is made for the purpose of:
 - (i) achieving transactional efficiency; or

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- (ii) giving effect to an investment strategy of the acquiring fund that has been communicated to the members of the acquiring fund; and
 - (e) corporations in the group comprised of the acquirer and each of its related bodies corporate that is the responsible entity of a registered scheme or the RSE licensee of a registrable superannuation entity make, or are likely to make, on a regular and repeatable basis, acquisitions of a similar kind.

3 At the end of subsection 41(1)

Add:

Note: Part 7A of the Act does not apply in relation to an acquisition mentioned in subsection (2) of this section: see section 58KA of this instrument.

4 At the end of subsection 41A(1)

Add:

Note: Part 7A of the Act does not apply in relation to an action taken by a foreign person mentioned in subsection (2) of this section: see section 58KB of this instrument.

5 At the end of Division 4 of Part 5B

Add:

58KA Exemption for Register purposes for certain acquisitions

For the purposes of paragraph 37(1)(a) of the Act, Part 7A of the Act does not apply in relation to an acquisition of an interest in securities in an entity (including securities in a land entity) mentioned in subsection 41(2) of this instrument.

58KB Exemption for Register purposes for actions by foreign persons in which foreign custodian corporations have interests

For the purposes of subsection 37(1) of the Act, Part 7A of the Act does not apply in relation to any action taken by a foreign person mentioned in subsection 41A(2) of this instrument.

6 In the appropriate position in Part 7

Insert:

82 Application of the *Foreign Acquisitions and Takeovers Amendment (Interfunding Exemption) Regulations 2024*

- (1) The amendments made by items 1 to 4 of Schedule 1 to the *Foreign Acquisitions and Takeovers Amendment (Interfunding Exemption) Regulations 2024* apply in relation to an action taken on or after the commencement of those Regulations.
- (2) The amendments made by item 5 of Schedule 1 to the *Foreign Acquisitions and Takeovers Amendment (Interfunding Exemption) Regulations 2024* apply in relation to an action taken on or after the commencement of the *Foreign Acquisitions and Takeovers Amendment (Register of Foreign Ownership and Other Matters) Regulations 2023*.