

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Inquiry into the foreign investment proposals
2019 - 2020

Division: Foreign Investment Division
Topic: How things look on paper and how they might be political in reality
Reference: Spoken

Question:

ACTING CHAIR: When a company claims to be a family based, family owned company but has significant links to another government, what scrutiny is given to ensure that it is genuinely a family company and not an associated government entity?

Mr Brake: I'm just being careful here.

ACTING CHAIR: I appreciate that, because investment is significant and very important for this country, but national security, which is what I'm asking about now, absolutely matters as well.

Mr Brake: Absolutely, and that is absolutely a critical consideration in our cases. In critical infrastructure, national security is a critical point. We engage with the national security agencies, who provide us with national security advice around any national security risks that they see in relation to any acquisition. Obviously, I'm not at liberty to really go into anything further.

ACTING CHAIR: We might explore this more in a private briefing, but I will put a question on notice, if I can, on the exact question that I asked—about how things look on paper and how they might be political in reality.

Mr Brake: Sure.

Answer:

The meaning of foreign government investor under the *Foreign Acquisitions and Takeovers Act 1975* includes a 'separate government entity', which is further defined in the Foreign Acquisitions and Takeovers Regulation 2015 as an individual or corporation that (a) is an agency or instrumentality of a foreign country or a part of a foreign country and (b) is not part of the body politic of a foreign country or of a part of a foreign country. The question of whether an applicant is a foreign government investor is a matter of fact and is considered as part of the case screening process. Treasury may consult with a range of consultation partners relevant to this issue, including security agencies and the Department of Foreign Affairs and Trade.