

# Australian Government's latest FIRB ruling allows Yancoal to retain ownership

Two weeks after rejecting Archer Daniels Midland's proposed takeover of Graincorp, Australian Treasurer Joe Hockey has allowed China's Yanzhou Coal Mining to maintain its current ownership stake in Yancoal Australia.

The decision frees Yanzhou of a 2009 requirement to sell down its stake in the company, a condition imposed by its foreign investment approval to buy Felix Resources and Gloucester Coal, and has opened the door to the miner taking full control of Yancoal in the future.

This will be the first time that a Chinese state owned enterprise has been allowed full control of a major asset in the Australian coal sector.

The approval reinforces the view that the new Australian Government is assessing applications case by case, and that current industry conditions will play a large role in the assessment of future applications.

## Background

Yancoal Australia has built a considerable portfolio of coal mining assets in the past four years.

In 2009, parent company Yanzhou bought 100% of ASX-listed coal miner Felix Resources. It went on to acquire Gloucester Coal in late 2010, and then in 2011 acquired first Syntech Resources, and then the Premier Coal business from Wesfarmers later that year. Having built one of the largest pure coal portfolios in Australia, the new-look Yancoal relisted on the ASX in 2012.

Conditions imposed by Australia's Foreign Investment Review Board

(FIRB) during these acquisitions required Yanzhou to reduce:

- its ownership in Yancoal from 100% to less than 70%
- its economic interest in Yancoal's former Felix Resources coal mining assets to less than 50% by the end of December 2013
- its economic interest in the Syntech Resources and Premier Coal mines to less than 70% by 31 December 2014.

The conditions also allowed Yanzhou to seek the Treasurer's approval to vary conditions if they were impacted by changes in economic conditions or other factors.

## Conditions overturned

Treasurer Hockey's decision on 11 December 2013 removes Yanzhou's requirement to reduce its ownership stake in Yancoal (currently 78%) in return for commitments that the Chinese parent company would continue to support Yancoal's operations in Australia.

Revealing that Yanzhou had considered options to seek 100% ownership of Yancoal, Mr Hockey stated that, while foreign investment proposals were considered on a case-by-case basis, "*the Government has no in-principle objection to 100 per cent foreign ownership of Australian*

*companies where it is not contrary to the national interest and is open to any such proposals from Yanzhou in the future."*

The decision was not widely expected, with many thinking that the Treasurer would simply allow Yanzhou more time to comply with the conditions imposed on its earlier acquisitions.

The Treasurer's full statement is available at <http://bjh.ministers.treasury.gov.au/media-release/033-2013/>

## Impact

The Treasurer's restatement of the Government's openness to foreign investment is welcome, given the largely negative reaction to the ADM/Graincorp decision just two weeks earlier.

However, the focus on local industry conditions in both decisions serves to reinforce that those considering significant foreign investment in Australia need to be acutely aware of the broader economic conditions affecting the target industry, the politics of the proposal, and that every FIRB decision will be reviewed on an individual basis.

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