

**HD Merger deals to test Hockey**

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A POTENTIAL wave of cross-border takeover deals is likely to set up new tests for the Foreign Investment Review **Board** and Joe Hockey.

As the government kicks off its deregulation agenda, an inaugural report on merger and acquisitions in the Asia-Pacific by law **firm** Herbert Smith Freehills, to be released today, predicts that to accommodate the changing landscape there may be a shake-up of Australia's foreign investment regime in place since the 1970s.

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Concern about Australia's attitudes to foreign investment spiked after the Treasurer last year blocked US giant Archer Daniels Midland's \$3.4 **billion** takeover of grains handler GrainCorp following pressure from the Nationals.

After that decision, Mr Hockey did approve State Grid Corporation of **China's acquisition** of stakes in Australia's **energy** infrastructure, which Freehills said indicated GrainCorp was blocked due to unique circumstances.

While the Abbott government has vowed to be "open for **business**", foreign acquisitions of agriculture, **mining** and **property** assets have sparked concerns in recent years, with the **Chinese** buying more than \$5bn worth of **residential property** a year, according to Credit Suisse.

Tony Damian, a partner at Freehills, which has extended its reach into Asia with its 2012 merger with Britain's Herbert Smith, said the FIRB would only get busier as cross-border **M&A** in the region rose amid a relaxation of regulatory barriers in countries from **China** to Indonesia.

He said the national interest test, regarded by many as an opaque measure that was easily subject to the whims of politics of the day, as well as other aspects of the regime could be reviewed, after the Coalition pushed for a Senate committee into foreign investment in agriculture before the election.

"It's absolutely possible (the national interest test could be changed). It seems to be on the cards . . . and if that happened it would be significant," Mr Damian said.

"Is national interest the right test? What does it mean? This current government through pursuing, for instance the Korea free trade agreement and the Trans-Pacific Partnership, demonstrates it is very much in favour of those capital flows as opposed to being against them."

Mr Damian said the removal of barriers to capital flows across the Asia-Pacific would result in a "golden age of growth and prosperity", citing the Trans-Pacific Partnership as critical.

The partnership would form a massive free trade bloc in the Asia-Pacific, including Japan, the US, Singapore, Malaysia and Australia. In addition, the relaxation of outbound investment in **China** and reforms in Myanmar, Singapore and Indonesia would further drive activity between nations -- and the deal flow for law firms and investment banks.

"It's a growth region with a potential free trade agreement thrown on top of it," Mr Damian said. "This really is groundbreaking economic and legal architecture, and I do believe it will drive this golden age of growth and prosperity in the region, and it will see increased capital flows, unhindered by many of the legal and regulatory barriers that exist today -- and therefore lots more deals."

Mr Damian's comments come as a survey of fund managers by Merrill Lynch showed investors were favouring emerging markets

such as Indonesia winning the "race to reform".

In the latest major cross-border deal, Singapore-based CapitaLand yesterday **sold** its \$844 **million stake** in **property group** Australand.

In a soft **M**&A market, foreign acquisitions of Australian companies fell 22 per cent to \$US29.4bn last year, according to Thomson Reuters.

Law **firm** Gilbert + Tobin has tipped a potential **M**&A revival as foreign bidders return after "keeping their powder dry" last year.

Gilbert + Tobin said the extraordinary battle for Warrnambool **Cheese & Butter**, won by Canada's Saputo, pointed to a return of animal spirits and that foreign bidders would face smoother conditions this year.

"With the Australian dollar now coming off its recent highs, and the prospect of a more stable federal government, 2014 could see a return of foreign bidders," the **firm** said.

**CO** arch : Archer Daniels Midland Company | stgcoc : State Grid Corporation Of China | freeho : Freehills

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