

**AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT (AFIDA)
ECONOMIC AND POLICY ANALYSIS DIVISION/FPAC**

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Background:

In the attached letter released October 1, Reps. Glenn Thompson and James Comer (R., Ky.), as well as more than 100 other House Republicans, asked GAO to conduct a study examining foreign countries' acquisition of U.S. farmland and its impact on national security, trade and food security. OSEC asked for background on the Agriculture Foreign Investment Disclosure Act (AFIDA) and USDA policy and practice around the foreign acquisition of farmland.

Overview:

The Agriculture Foreign Investment Disclosure Act (AFIDA) of 1978 requires disclosure of foreign ownership of U.S. agricultural land. Any foreign person or entity who acquires or transfers any interest, other than a security interest, in agricultural land, must report on the 2-page FSA-153¹ form their land acquisitions and sales, or changes from agriculture or non-agriculture use, within 90 days after the date of each transaction. By regulation, reporting is required to the third tier of foreign ownership.² Failure to report, late-filed reports, or incomplete, misleading, or false information can result in a penalty of up to 25 percent of the market value of the foreign person's interest in the land. The data collected is used to develop an annual report to Congress on foreign investment in U.S. agriculture.³

Current Process:

- Filings include the FSA-153, the legal description of the land, and any exhibits that explain tiers of ownership and other relevant information.
- Filings have become increasingly complex over time. About 60 percent of current filings are sent directly to headquarters; the remaining 40 percent are handled by FSA county offices prior to moving to headquarters. Staff at headquarters often work with filers (or their attorney representatives) to make sure forms are completed accurately.
- Once received, FSA-153 forms are reviewed for completeness:
 - Cross-checks are made within the FSA-153 form and staff ensure that any land sales have an associated prior land acquisitions on file.
 - All forms filed through county offices are checked again at headquarters.
- Due to limited staff (and a new program manager), no penalties were assessed between 2015-18 as the top priority was making sure the annual report to Congress was as accurate as possible. With additional staff, penalties have resumed and OGC has advised (b) (5), Attorney Client Privilege, Deliberative Process Privilege [REDACTED].

¹ <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/FSA153.PDF>.

² This requirement appears in the handbook, found at https://www.fsa.usda.gov/Internet/FSA_File/1-afida_r02_a02.pdf and in the regulation.

³ <https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/index>

- Assessed penalties are about 1 percent of market value and have been low since the beginning of the program (at the direction of the Secretary's office in the early 1980s).

Key Points:

- In 2012 there were 911 parcels filed and in 2021 there were 6,363 parcels; filings have increased sharply since 2015.
- Foreign persons reported an interest in nearly 37.6 million acres of U.S. agricultural land as of December 31, 2020, across all fifty states and in Puerto Rico. This is 2.9 percent of all privately-held agricultural land and 1.7 percent of all land in the United States.
- Canada and western Europe consistently have been the top foreign holders of U.S. agricultural land. Canada accounts for 32 percent of foreign holdings and 31 percent is held in total by the Netherlands, Italy, the United Kingdom, and Germany.
- Chinese primary-investor filers owning 325,686 acres in 27 states as of December 31, 2020, which is slightly less than 1 percent of foreign-held agricultural acres. Holdings by Russia, Iran, and North Korea are tiny.

Challenges:

(b) (5) DPP

- Letter
- CRS Report on Foreign Farmland Ownership