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Foreign Ownership and Holdings of U.S. Agricultural Land

The 117th Congress introduced a range of proposals to restrict foreign investment and ownership in the U.S. food and agriculture sector and enacted certain new reporting requirements for the U.S. Department of Agriculture (USDA) related to disclosure of foreign ownership of U.S. agricultural lands. The 118th Congress might consider these or related proposals during the next farm bill debate.

Existing Federal Requirements

Current federal law imposes no restrictions on the amount of private U.S. agricultural land that can be foreign-owned. Federal law, however, requires foreign persons and entities to disclose to USDA information related to foreign investment and ownership of U.S. agricultural land.

The Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA; P.L. 95-460, 7 U.S.C. §§3501-3508), as implemented by USDA, established a nationwide system for collecting information pertaining to foreign ownership of U.S. *agricultural land*, defined as land used for forestry production, farming, ranching, or timber production (7 U.S.C. 3508; 7 C.F.R. §781.2). AFIDA defines a *foreign person* to include "any individual, corporation, company, association, partnership, society, joint stock company, trust, estate, or any other legal entity" (including "any foreign government") under the laws of a foreign government or with a principal place of business outside the United States. The regulations require foreign persons who buy, sell, or gain interest in U.S. agricultural land to disclose their holdings and transactions to USDA directly or to the Farm Service Agency county office where the land is located. Failure to disclose this information may result in penalties and fines. After the original disclosure (Form FSA-153), each subsequent change of ownership or use must be reported. USDA compiles these data, with the most recent AFIDA report covering 2021.

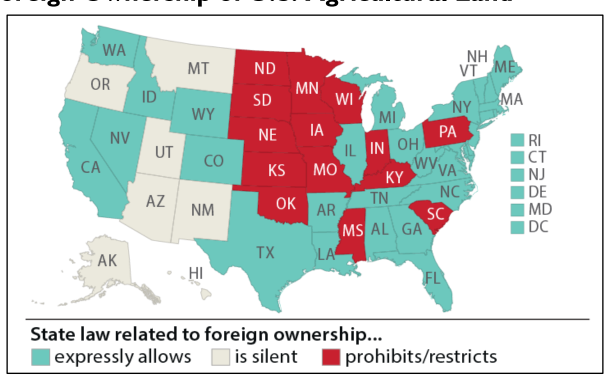
Foreign persons or entities may be eligible for certain USDA farm program benefits if they meet the same requirements as domestic persons or entities. Specifically, they must be considered *actively engaged in farming* (7 U.S.C. §1308-1), meaning they are either farming the land or landlords renting land under a crop-share agreement. They also must have the requisite U.S. taxpayer ID and meet the program's eligibility requirements. Other criteria may apply, such as limits on the entity's adjusted gross income. Current law imposes no restrictions on foreign persons or entities with respect to eligibility for crop and livestock insurance premium subsidies. Some programs make no distinction about a producer's or owner's citizenship (e.g., the Dairy Margin Coverage program), and other programs have no explicit citizenship requirement (e.g., the U.S. sugar program). Foreign persons or entities are not eligible for permanent disaster assistance programs; the Noninsured Crop Disaster Assistance Program explicitly prohibits payments to foreign entities other than resident aliens. See CRS Report R46248, *U.S. Farm Programs: Eligibility and Payment Limits* and USDA's fact sheet, *Payment Eligibility and Payment Limitations.*

Existing State Requirements

Some states and localities have instituted restrictions on foreign ownership of farmland. An overview of state laws by researchers at the University of Arkansas's National Agricultural Law Center shows that no U.S. state has instituted an absolute prohibition on foreign ownership. However, some states limit or have proposed to prohibit certain foreign persons and entities from acquiring or owning an interest in agricultural land within their state, and several states have separate disclosure requirements within their state (**Figure 1**). USDA has identified 339 counties in Iowa, Kansas, Pennsylvania, and Wisconsin as having the strictest prohibitions on foreign ownership of agricultural land and other nonagricultural real estate.

There is no single uniform approach under state laws to addressing foreign ownership. Some general categories include restrictions on the amount of land that can be owned or the duration of ownership; distinctions involving private versus public land or how *agricultural land* is defined; distinctions involving resident/nonresident aliens; inheritance considerations involving land ownership; restrictions on ownership by foreign corporations (e.g., corporate farming laws or requirements corporations are subject to in order to obtain license or register); and differences related to enforcement and penalties.

Figure 1. Overview of Selected State Laws Related to Foreign Ownership of U.S. Agricultural Land



Source: CRS using data from National Agricultural Law Center, at https://nationalaglawcenter.org/state-compilations/aglandownership/, as depicted at https://nalcpro.wpenginepowered.com/wp-content/uploads//assets/Webinars/Foreign-Land-Ownership.pdf.

USDA Data on Foreign Ownership

USDA reports that foreign persons and entities held an interest in 40.8 million acres of U.S. agricultural land in 2021, accounting for 3.1% of total privately owned land (**Table 1**). These data cover agricultural land and nonagricultural land. In 2021, forestland accounted for 47% of all foreign-owned land, cropland accounted for 29%, and pasture and other agricultural land for 22%. Nonagricultural land (such as homesteads and roads) accounted for 2%. USDA reports that foreign land holdings have increased by an average of 2.2 million acres per year since 2015. Data cover both foreign-owned (29.1 million acres) and U.S. subsidiary-owned land (11.7 million acres) (**Table 1**).

Five countries accounted for approximately 62% of all foreign-owned U.S. agricultural land in 2021. As a share of all foreign-owned acres, these were Canada (31%, mostly forestland), the Netherlands (12%), Italy (7%), the United Kingdom (6%), and Germany (6%). Other countries with holdings of more than 500,000 acres were Portugal, France, Denmark, Luxembourg, Mexico, Switzerland, the Cayman Islands, Japan, and Belgium.

Table 1. Foreign Holdings of Agricultural Land, 2021

Country	Total	Foreign Entities	U.S. Entities w/ Foreign Shares	% of U.S. Private Land
		(million acres)		(percent)
Canada	12.8	9.7	3.2	1.0%
Netherlands	4.9	4.4	0.5	0.4%
Italy	2.7	2.6	0.1	0.2%
United Kingdom	2.5	1.5	1.0	0.2%
Germany	2.3	1.4	0.9	0.2%
Subtotal	**25.2**	**19.6**	**5.7**	**2.0%**
Other Countries	12.4	7.1	5.3	1.0%
Not Listed	3.2	2.4	0.8	0.3%
Total	**40.8**	**29.1**	**11.7**	**3.1%**

Source: CRS from USDA, *Foreign Holdings of U.S. Agricultural Land through December 31, 2021* (Report 6). Data cover sole foreign and joint U.S. ownership of privately held agricultural and nonagricultural land (1,290.5 million acres in 2021). May not add due to rounding.

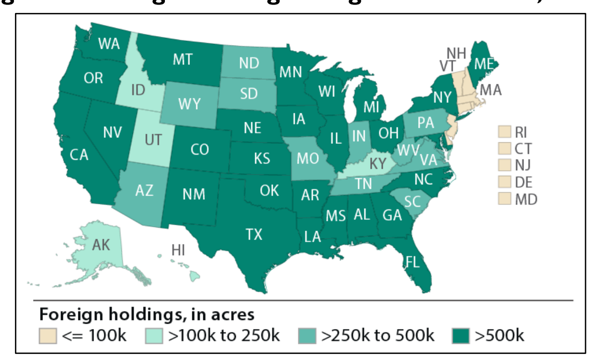
Notes: "Foreign Entities" refer to holdings by individual foreign investors or entities not created in the United States; "U.S. Entities w/ Foreign Shares" refer to interests of U.S. corporations with foreign shareholders. "Not Listed" covers AFIDA codes 998 (no foreign investor listed) and 999 (no predominant country code).

All U.S. states report foreign investment/ownership in U.S. land (**Figure 2**). As of year-end 2021, according to USDA, the states with the most foreign-owned agricultural acreage were Texas (5.3 million acres), Maine (3.6 million acres), Colorado (1.9 million acres), Alabama (1.8 million acres), and Oklahoma (1.7 million acres). Other states with more than 1 million foreign-owned acres were Arkansas, California, Florida, Georgia, Kansas, Louisiana, Michigan, New Mexico, Oregon, and Washington.

Users of USDA's AFIDA data have noted inaccuracies and underreporting under current disclosure requirements. The Midwest Center for Investigative Reporting asserts that data collected under AFIDA are not complete, contain errors and omissions, do not track sales of foreign-held U.S. farmland, and may not accurately reflect changes over time. For example, 7.5% of the AFIDA-reported foreign-held acres were for "Country Not Listed," combining reporting codes 998 (no foreign investor listed) and 999 (no predominant country code) (**Table 1**). Limited information is available on AFIDA-reported data covering land held by certain countries known to provide certain tax-neutral jurisdictions for private equity firms, such as the Cayman Islands and the British Virgin Islands. Some House Members, including the Chairman of the House Agriculture Committee, have asked the Government Accountability Office (GAO) to conduct a review of AFIDA, including how USDA collects data under AFIDA, how its collection methods have changed over time, how USDA ensures accurate data disclosure, and how reporting requirements under AFIDA might be improved.

There also is increased attention on the possible impact of foreign investment in the U.S. food and agriculture sector, particularly focused on Chinese investment following high-profile acquisitions in the past decade. In 2013, the Chinese firm WH Group (formerly Shuanghui International) acquired U.S. company Smithfield Foods, the world's largest pork producer. In 2022, Chinese food manufacturer Fufeng Group bought 300 acres of land near the Grand Forks Air Force Base in North Dakota with plans to build a wet corn milling and biofermentation plant. Not including the Fufeng Group purchase in 2022, USDA reports that China accounted for 383,935 acres, or 0.9% of total foreign-owned U.S. agricultural land as of year-end 2021.

Figure 2. Foreign Holdings of Agricultural Land, 2021



Source: CRS from USDA data, available at USDA, *Foreign Holdings of U.S. Agricultural Land Through December 31, 2021* (Report 1).

Proposed Legislative Options

The 117th Congress enacted certain changes and introduced a range of proposals to address concerns involving foreign purchases of U.S. agricultural lands and investment in the U.S. food and agricultural sector. Some of these proposals would have tightened USDA's disclosure requirements, and others would have restricted USDA program eligibility to foreign entities. The 118th Congress might consider these types of proposals involving USDA during the next farm bill debate. Other congressional proposals reflected various national security concerns and sought to amend federal authorities other than those pertaining to USDA. Some of these proposals would have expanded federal review of foreign investment transactions in the U.S. food and agriculture sector, and others would have prohibited certain foreign adversaries from such investment transactions. See CRS In Focus IF12312, *Foreign Ownership of U.S. Agriculture: Selected Policy Options*.

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