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August 10, 2026

Matt Allen
Director
Office of Homeland Security
Department of Agriculture
Washington, DC   20240

RE: Docket ID: USDA-2026-0001, Revision of Regulations related to the Agricultural Foreign Investment Disclosure Act of 1978 (the AFIDA)

Dear Director Allen:

The REALTORS® Land Institute (RLI) appreciates the opportunity to comment on the U.S. Department of Agriculture's (USDA) proposed regulations implementing the Agricultural Foreign Investment Disclosure Act (AFIDA).

Transparency regarding foreign ownership of agricultural land is an important public policy objective. As the proposed AFIDA Revision of Regulations are currently written, the proposed changes may unintentionally discourage foreign investment in U.S. agricultural real estate by increasing regulatory complexity, compliance costs, and legal uncertainty.

Members of RLI specialize in land brokerage related to all types of land, including farms, ranches, timberland, undeveloped tracts of land, transitional and development land, subdivision and lot wholesaling, assemblage of land parcels, auctions and farm and land management.

These additional regulatory burdens could affect RLI members and their clients. Land brokers may face increased transaction delays, additional due diligence costs, and greater legal uncertainty as they assist clients in navigating complex reporting requirements. The potential for substantial penalties associated with inadvertent reporting errors may discourage foreign purchasers from participating in the marketplace and reduce liquidity for agricultural landowners seeking to sell their property.

Foreign investment has long served as an important source of capital for rural communities, agricultural operations, and conservation initiatives. This capital received by the land seller may then be reinvested, stimulating economic development in other facets of these rural communities that would not be possible without foreign purchaser involvement. Regulations that unnecessarily increase compliance costs or create uncertainty may reduce investment in America's working lands without significantly improving the quality or usefulness of the information collected.s

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The following are three areas where regulatory clarity and reduction of complexity and legal uncertainty would contribute to a more useful AFIDA, as well as strengthen national security.

The USDA Should Focus Any Expanded Reporting on Foreign Adversaries and Foreign Adversary Controlled Entities for Purposes of Assessing Ownership and Control

RLI is concerned that key provisions of the proposed rule fail to appropriately distinguish between "foreign persons" on the one hand and "foreign adversaries" and "foreign adversary- controlled entities" on the other as it relates to assessing national security interests arising from "ownership" of and "control" over farmland. Although USDA seeks to improve AFIDA data quality and strengthen national security review, an objective RLI strongly supports, farmland interests take many forms and do not always give the holder authority over the use, disposition, or management of agricultural land. USDA should, therefore, focus reporting obligations on interests of foreign adversaries and foreign adversary-controlled entities that have a meaningful ability to direct decisions about agricultural land, consistent with its laudable national security goals.

This misalignment is most evident in USDA's proposed revisions to the definition of "any interest." The current rule exempts leaseholds of less than ten years, but USDA proposes to narrow that exemption to leases of less than one year for non-foreign-adversary lessees with respect to whom there is no increased national security risk. USDA also proposes to require reporting for all surface and subsurface easements and rights of way to agricultural land without distinguishing on the basis of foreign adversarial status.

By substantially expanding the universe of reportable interests without regard to whether those interests implicate heightened national security concerns, USDA risks imposing significant new compliance burdens in exchange for information of limited utility. USDA should instead calibrate any expansion of reporting requirements to the value of the additional data collected, ensuring that the burden imposed is proportionate to its usefulness in advancing the agency's national security objectives.

USDA Should Ensure that Collected Data is Standardized and Subject to Confidentiality Protections

RLI supports USDA's desire for usable data related to national security. However, the additional delivery requirements, including geospatial mapping with subdivision for use types, together with the expanded reporting requirements described above, will create a significant administrative burden for farmland owners. For many types of ownership structures used for modern investment vehicles, that burden will fall on the domestic organizations that manage the farmland rather than the foreign owner. RLI encourages approaches that rely on standardized, verifiable data sources, and that are broadly usable across agencies and audiences, while minimizing new compliance burdens for farm owners.

Any expansion of AFIDA that requires reporting of farmland data or any other confidential or sensitive business information and/or personal or proprietary owner information should have confidentiality protections. USDA should clearly identify what information, if any, will be publicly released and, to the greatest extent possible, rely on aggregated, non-parcel-specific disclosures. USDA should also implement strong data-security controls for any modernized reporting platform and avoid requirements that could expose sensitive personal, property, or operational information.

Farmland, by its nature, consists of large tracts of land whose use evolves over time as farming practices and external factors change. For example, roads may be constructed or relocated, new wells may be drilled, crop land may be added to or removed from production based on drought or market conditions. Each of these types of changes would mandate additional filings, updated maps, and other information. If the Final Rule ultimately requires this level of ongoing reporting, RLI supports implementation of a process that allows reporting entities to verify information annually, rather than through ad hoc updates.

RLI Supports Proportionate Penalties for High-Risk Violations, But USDA Should Retain Authority to Mitigate Penalties

USDA proposes to remove the current regulatory provisions that allow downward adjustments to penalties based on factors such as the total time the violation existed, the method of discovery, extenuating circumstances, and the nature of the information misstated or not reported. USDA explains that it believes those downward adjustments may not properly deter noncompliance and undermine AFIDA's aims. RLI respectfully urges USDA not to categorically eliminate its discretion for downward adjustments. RLI members' experience is that AFIDA noncompliance is often inadvertent, discovered through internal audit processes or during transfers, and reported to the agency in good faith.

Furthermore, many if not most such omissions and errors are identified and self-reported in good faith well after the 17-week threshold after which, under the proposed rule, penalties will accrue to the full penalty cap of 25% of fair market value. Retaining authority for downward penalty adjustments in appropriate cases would better serve AFIDA's disclosure and national security goals.

Conclusion

The expanded reporting requirements, more detailed ownership disclosures, and heightened compliance expectations could create significant administrative burdens for investors seeking to comply with U.S. law. Many foreign investors—including pension funds, institutional investors, and individuals who invest through complex but lawful ownership structures—may view these additional requirements as increasing the cost and risk of investing in U.S. agricultural assets.

RLI encourages the U.S. Department of Agriculture to finalize regulations that achieve AFIDA's transparency objectives while minimizing unnecessary burdens on landowners, investors, and the land professionals who serve them. We respectfully recommend that the USDA clarify key definitions, simplify reporting requirements where possible, establish reasonable safe harbors for good-faith compliance, and provide clear guidance that promotes consistent implementation.

Thank you for consideration of these comments.

Geoff Hurdle, 2026 RLI President