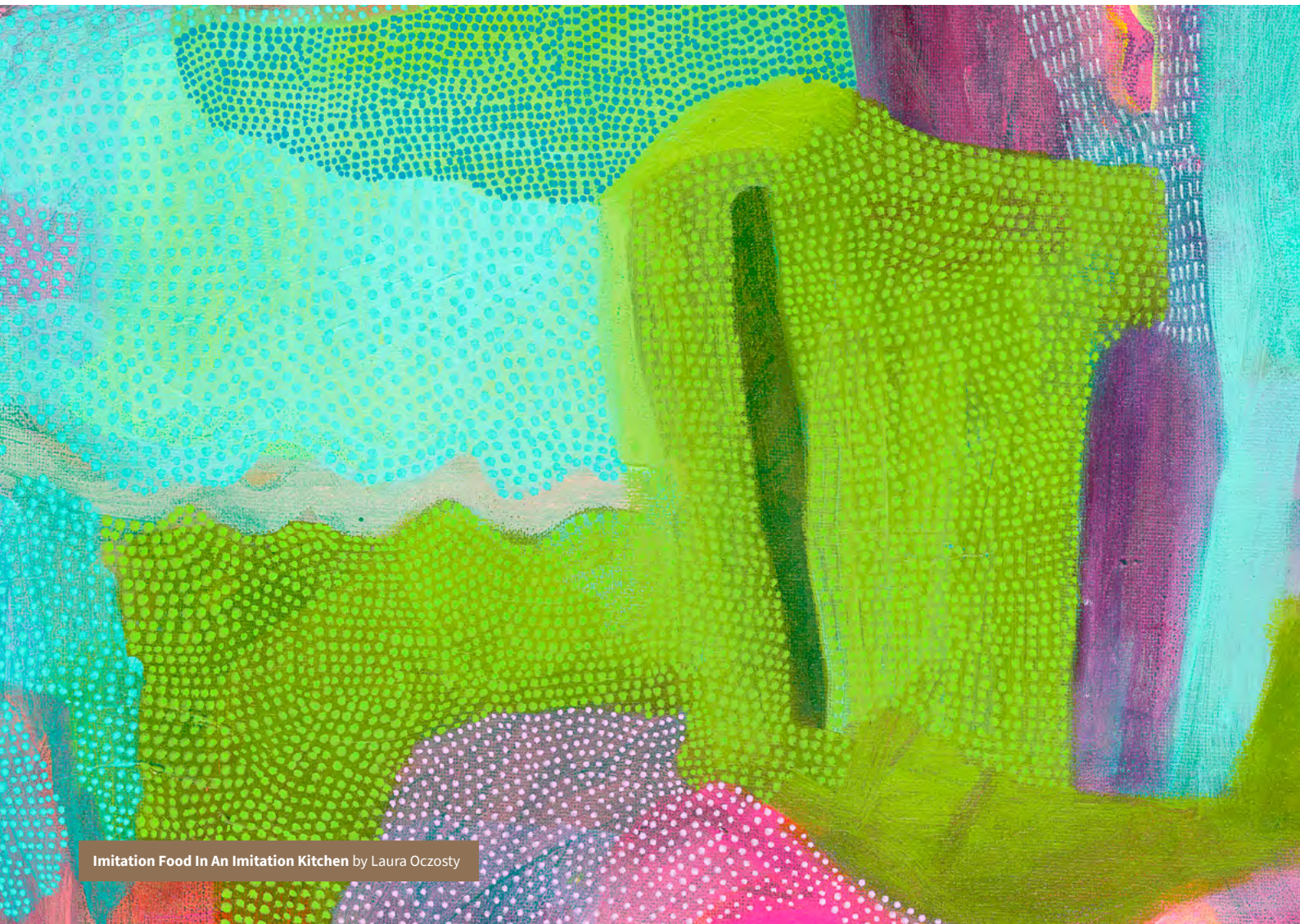


# IN PRIVATE

KWM M&A INSIGHTS | OCTOBER 2025



# FIRB / ACCC: APPROVAL PATHWAYS CONVERGE

**FIRB recently announced policy changes to streamline its application process and reduce regulatory duplication, requiring applicants to disclose information about competitive overlaps between merger parties. Regardless of any ACCC merger notification, Treasury may refer transactions to the ACCC if competition concerns arise, allowing the ACCC to assess whether FIRB-notified deals should also be notified under the new merger regime.**

FIRB applicants must now state within their online application whether their transaction will be notified to the ACCC under the new merger regime. If ACCC notification is required or a waiver has been granted, applicants must provide Treasury with the ACCC reference or waiver number and keep Treasury updated on the application's progress. If notification is not required and has not been made voluntarily, applicants must complete mandatory competition-related fields, including details on competitive overlaps, relevant markets, key suppliers, likely competitive effects, and Australian revenue figures for each party and related entities for the past three financial years.

The revised policy now makes clear (consistent with what has been practice to date) that FIRB will not make a decision until the ACCC has made a determination.

For sponsors, the changes emphasise the importance of early thinking and preparation around merger-related considerations. Deal teams should be ready to provide revenue data, market overlap details, and competitor information by the time their FIRB filing is to be lodged. Engagement with advisers and counterparties to quantify market share data and anticipate ACCC queries will be an important part of that process.

Finally, just before release of this edition of *In Private*, the Assistant Minister for Productivity and Competition announced that the Government will be moving ahead of 1 January 2026 to refine certain aspects of the new merger notification regime 'to ensure the reforms are appropriately targeted and risk-based'. The proposed refinements include new and wider exemptions from mandatory notification for low-risk business activities in areas such as residential property development, retail trade and financial markets. The Government also plans to make practical adjustments to the automatic voiding provisions. For those that have been preparing for the new regime and its implications, these refinements look like a positive step forward.



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