

# Investing in Saskatchewan Farm Land:

## *Understanding the Implications of The Saskatchewan Farm Security Act*

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Saskatchewan has approximately 40 per cent of all Canadian farm land. We have nutrient rich soils, predictable and stable weather patterns and technologically advanced farming practices that in return produce high yield crops. For these reasons Saskatchewan is a global epicenter of agriculture. Notwithstanding, farm land values in Saskatchewan are low compared to many other parts of Canada and the world. Together this creates very attractive investment opportunities for those looking to capture the relative value of Saskatchewan farm land. In light of this, buyers, sellers, investors and others, particularly if non-Canadian, need to know what investments are prohibited by *The Saskatchewan Farm Security Act*.

### Direct Ownership and Restrictions on non-Canadian individuals and entities

Directly buying farm land is often an investor's first choice when making an investment in Saskatchewan farm land. *The Saskatchewan Farm Security Act*, however, restricts the ownership and operation of Saskatchewan farm land by non-residents and non-Canadian-owned entities. Specifically, the Act prohibits non-residents and

non-Canadian-owned entities from acquiring an aggregate land holding in excess of 10 acres. With that, it is important for transacting parties to understand the Act's definition of "farm land," "non-resident" and "non-Canadian-owned entity."

Farm land is defined as real property outside a city, town, village, hamlet or resort village that is used, or capable of being used, for farming. Notably this definition excludes land primarily used for extracting, processing or storing minerals, such as sand or gravel. The Act defines "non-resident" and "non-Canadian-owned entity" by referring to the defined terms "resident person" and "Canadian-owned-entity." A non-resident person is an individual who is not a resident person, and a non-Canadian-owned entity is a person or other entity that is not a Canadian-owned entity, or a person or entity that has shares listed on a stock exchange. The Act defines a resident person as a Canadian citizen or a permanent resident under the *Immigration and Refugee Protection Act (Canada)* and a Canadian-owned entity as a corporation or any other entity in which all the shares or interests are legally and beneficially owned, and all the memberships are held, by resident persons or other Canadian-owned entities.

The prohibitive effect of these definitions is that a non-Canadian individual or entity may only hold up to 10 acres of Saskatchewan farm land. Any land holding over that amount requires an order from the Farm Land Security Board. If an order is not obtained, and the threshold is exceeded, the Saskatchewan Farm Security Board could require the non-Canadian to divest itself of the land holding.

**The Saskatchewan Farm Security Act**  
*restricts the ownership and operation of*  
*Saskatchewan farm land by non-residents*  
*and non-Canadian-owned entities.*

**Indirect Ownership and Restrictions**  
**on non-Canadian individuals and entities**


The inability for non-Canadian individuals and entities to directly acquire Saskatchewan farm land has resulted in attempts to create indirect ownership structures that would allow investors to capitalize on Saskatchewan farm land. In 2015, Skyline Agriculture Financial Corp. (a non-Canadian-owned entity) created a structure that financed agriculture producers through a relatively complicated series of loans, revenue swaps and derivative agreements whereby the company would receive payments if an index of land values were to rise. Notwithstanding, Skyline did not own farm land in the traditional way, the structure's effect was to provide Skyline with substantially all of the rights associated with land

ownership and this was determined by the Farm Land Security Board to be contrary to the Act. Skyline's appeal of the Board's decision was denied, signaling to international investors that innovative attempts to capture the value of Saskatchewan farm land will not be permitted when the result is to give non-Canadian's rights in the land and appreciation of land values.

While Skyline's structure was not permitted under the Act, other companies like Input Capital Corp., a company listed on the TSX Venture Exchange, created the world's first agricultural commodity streaming company. Derived from streaming structures first developed in the mining industry, Input Capital's streaming structure is a financial tool for producers that provides cash upfront for crops yet to be planted. As Input Capital's model is not structured around farm land ownership or value appreciation, it is not contrary to *The Saskatchewan Farm Security Act* ownership restrictions. Input Capital's innovative structure, however, does permit investors, both Canadian and non-Canadian, to receive returns based on agricultural commodity values.

**Closure**

Saskatchewan's land base, quality and value are such that investors will continue to seek new and innovative ways to invest in Saskatchewan farm land, and understanding *The Saskatchewan Farm Security Act* is a critical first step.

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