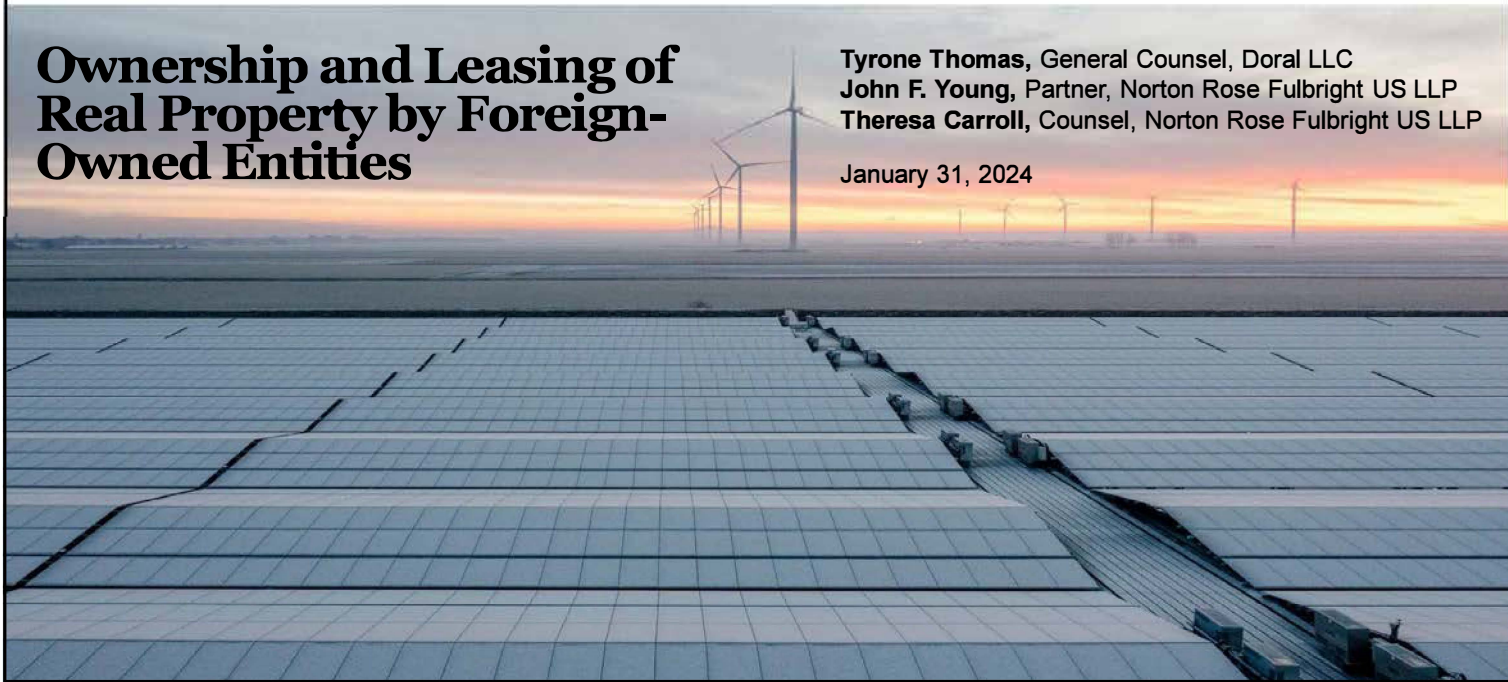**Ownership and Leasing of Real Property by Foreign-Owned Entities**

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PRIMARY OBLIGATIONS AND RESTRICTIONS ON FOREIGN-OWNED LAND

- Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA)
- Committee on Foreign Investment in the United States (CFIUS)
- State Law Restrictions/Obligations

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OVERVIEW OF AFIDA

Any "foreign person" who acquires or disposes of a "reportable interest" in "agricultural land" must report that interest to the FSA within 90 days of the acquisition or disposition;

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AFIDA – "FOREIGN PERSON"

- A person who is not a US citizen
- A foreign government
- An entity formed under the laws of a foreign government
- A US entity in which:
  - 10% or more by one foreign person or a group of foreign persons acting "in concert"
  - 50% or more by a group of foreign persons not acting "in concert".

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AFIDA – "REPORTABLE INTEREST"

- A reportable interest is a two-prong test:
  - A direct holder of fee title
  - A direct holder of a lease of 10 years or longer
  - An indirect holder of a fee or leasehold interest of 10 years or longer
- Notable Exceptions to reportable interests are:
  - Leaseholds of less <10 years
  - Easements
  - Contingent future interests (i.e., options)
  - Security interests
  - Subsurface interests

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AFIDA – "AGRICULTURAL LAND"

Agricultural land is a two-prong test

- 1- Size:
  - More than 10 acres
  - Less than 10 acres in size if >$1k in gross receipts for farm, ranch or timber products
- 2- Use (within the past 5 years):
  - Used for farming (including grazing), ranching, vineyards, orchards or timber production
  - Used for forestry production if 10% or more of the land was stocked with trees

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