

FOREIGN INVESTMENT COMPLIANCE FRAMEWORK POLICY STATEMENT (WEBSITE VERSION 1.0)

OBJECTIVE OF THE FRAMEWORK

Ensuring strong compliance with foreign investment legislation is a priority for the Australian Government, to ensure that foreign investment is not contrary to the national interest.

The *Foreign Investment Compliance Framework* (the Compliance framework) has been developed to provide strengthened assurance that foreign investors are meeting their compliance obligations, including supporting foreign investors to understand their compliance obligations, while minimising the regulatory burden.

SCOPE OF THE FRAMEWORK

The Compliance framework outlines the foreign investment compliance and enforcement objectives and draws together the different compliance and enforcement activities undertaken by Treasury and other entities, in the administration and support of Australia’s foreign investment regime.

This document provides an overview of the Compliance framework, roles and responsibilities, and Treasury’s approach to compliance and enforcement activities within its area of responsibility.

THE FOREIGN INVESTMENT COMPLIANCE FRAMEWORK

| FOREIGN INVESTMENT COMPLIANCE FRAMEWORK | | | |
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| <i>Foreign Acquisitions and Takeovers Act 1975</i> <i>Foreign Acquisitions and Takeovers Regulation 2015</i> <i>Australia’s Foreign Investment Policy</i> <i>Register of Foreign Ownership of Water or Agricultural Land Act 2015</i> | | | |
| COMPLIANCE AND ENFORCEMENT | | | |
| Objective | To provide strengthened assurance that foreign investors are meeting their obligations while minimising the regulatory burden | | |
| HOW | | | |
| COMPLIANCE ASSURANCE | ENFORCEMENT | STAKEHOLDER ENGAGEMENT | MARKET INTELLIGENCE |
| undertaking risk-based compliance activities, including audits | undertaking enforcement action, which is appropriate to the type and scale of a compliance issue | working with foreign investors and their advisers to ensure they understand their compliance obligations | using information and data to better understand and address non-compliance |

Figure 1: The Foreign Investment Compliance Framework

FOREIGN INVESTMENT COMPLIANCE ROLES AND RESPONSIBILITIES

Treasury is responsible for compliance and enforcement activities for proposals within its areas of screening responsibility, including business, agricultural and some commercial land foreign investment proposals. Further information on how Treasury approaches these activities is included below.

The Australian Taxation Office (ATO) is responsible for compliance and enforcement activities for proposals within its screening responsibility, including residential real estate and some commercial land proposals. Further information on how the ATO approaches these activities can be found at: firb.gov.au/real-estate/compliance.

Foreign investment compliance and enforcement activities may also be supported by other regulatory regimes and specialist advice from other entities, including Australian Government regulators, as required.

HOW DOES TREASURY UNDERTAKE ACTIVITIES UNDER THE COMPLIANCE FRAMEWORK?

Treasury undertakes a number of compliance activities which can be categorised into four key areas:

- **compliance assurance** - compliance assurance activities, including audits;
- **enforcement** - undertaking enforcement activities under the legislative provisions;
- **stakeholder engagement** - educating foreign investors and their advisers on compliance obligations; and
- **market intelligence** - using data and information to better understand and address non-compliance.

Treasury's compliance efforts are focused on areas of risk to the national interest and aim to achieve a balance between providing assurance, detecting and remedying non-compliance while limiting the impact and supporting foreign investors to do the right thing.

Treasury also provides support and education to foreign investors to assist them to meet their compliance obligations in the first instance.

If you have questions on your foreign investment compliance obligations, please contact firbcompliance@treasury.gov.au

OFFENCES AND PENALTIES UNDER THE FOREIGN INVESTMENT REGIME

The *Foreign Acquisitions and Takeovers Act 1975* includes criminal and civil penalties for non-compliance.

Offences may include failing to seek approval for foreign investments which meet the legislative thresholds, or for non-compliance with conditions imposed on a foreign investment proposal. The Treasurer may also order a foreign investor to dispose of interests in assets, a business or land.

These provisions are designed to deter non-compliance and ensure the national interest is safeguarded.

Treasury, and the Treasurer as the decision maker, will ensure that any pursuit of any penalties for non-compliance with the FATA is commensurate with the breach and the degree of the non-compliance, and is consistent with all other Treasury obligations.

In general, Treasury may take a more lenient view of non-compliance and seek to work with the foreign investor to achieve compliance in cases where non-compliance is inadvertent, self-reported by the foreign investor, the breach is administrative, and the investor is willing to remediate the breach as quickly as possible.

FURTHER INFORMATION

For further information on foreign investment compliance obligations, please see firb.gov.au or email firbcompliance@treasury.gov.au.

RELATED DOCUMENTS

Foreign Acquisitions and Takeovers Act 1975

Foreign Acquisitions and Takeovers Regulation 2015

Register of Foreign Ownership of Water or Agricultural Land Act 2015

Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015

Australia's Foreign Investment Policy