



Australian Government
The Treasury



Quarterly Report on Foreign Investment

1 October – 31 December 2022

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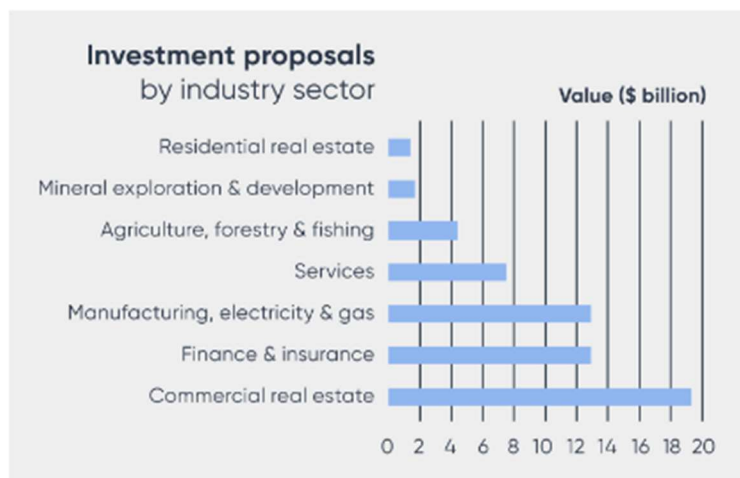
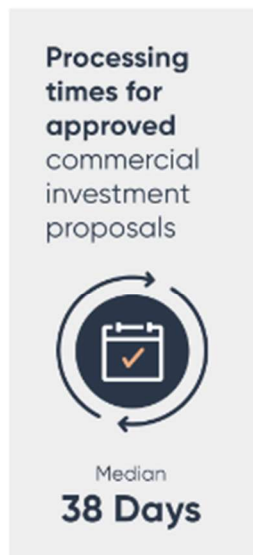
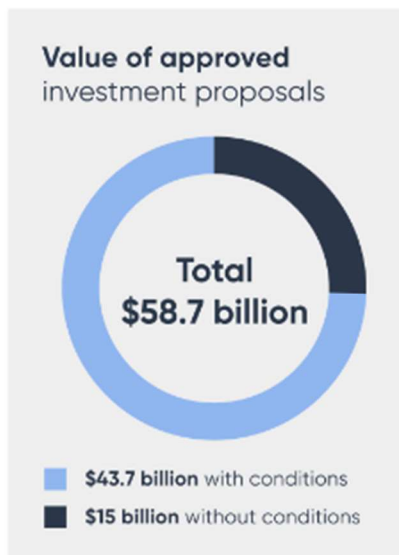
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Key foreign investment framework data

Commercial¹ data for the period 1 October – 31 December 2022



¹ Commercial investments include all investments other than residential real estate.

Foreign investment reporting 1 October to 31 December 2022

Introduction

The Treasury is Australia's foreign investment policy advisor and regulator. It administers the foreign investment framework, which is set by the *Foreign Acquisitions and Takeovers Act 1975* and the *Foreign Acquisitions and Takeovers Fees Impositions Act 2015*, along with their associated regulations.

The Treasury assesses commercial investment proposals, is responsible for fostering compliance and advises the Australian Government on all aspects of foreign investment policy. Under the foreign investment framework, the Australian Taxation Office (ATO) is responsible for residential real estate investment proposals.

The Treasurer is the decision maker under Australia's foreign investment framework, however decision-making delegations exist to enable Treasury portfolio ministers, and Treasury and ATO officials, to make decisions on foreign investment proposals on behalf of the Treasurer.

The Foreign Investment Review Board (FIRB) is a non-statutory body which advises the Treasurer on the policy and administration of the foreign investment framework.

More information about Australia's foreign investment regulatory system is available at www.firb.gov.au.

About this report

This is the second quarterly report on the regulation of foreign investment in Australia. The evaluation of the 2021 foreign investment reforms found that regular performance reporting would improve the transparency of foreign investment regulation in Australia.

This quarterly report sets out key performance data concerning the operation of Australia's foreign investment regulatory framework. The Treasury will publish a quarterly report 4-6 weeks after the end of the relevant quarter, and annual reporting information will be set out in the Treasury's Annual Report.

The next quarterly report will be published in May 2023. Please see the Treasury Annual Report 2021-22 for information and data concerning 2021-22².

² See <https://treasury.gov.au/the-department/corporate-publications/annual-report>

Investment proposals

The Treasury assesses commercial investment proposals and the Australian Taxation Office assesses residential real estate investment proposals to ensure that they are not contrary to the national interest or national security. Investment proposals are categorised as 'approved' where the outcome is favourable for the investor, resulting in either a No Objection Notification or an Exemption Certificate.

Withdrawn investment proposals are proposals withdrawn by the investor. Proposals may be withdrawn for a variety of reasons, including: the investor choosing not to proceed with or deferring a purchase; the investor being unsuccessful in a competitive tender process before the proposal was finalised; the proposed investment being withdrawn from market; changes to investor consortium compositions; concerns identified by the Treasurer; or where the proposal was incorrectly lodged.

Investment proposals by number and value

Table 1: Number of investment proposals

	Current quarter	Previous quarter	Commercial			Residential real estate				
			2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	127	198	325	804	821	873	640	1513	3,667	2,560
Approved without conditions	210	206	416	759	1,504	351	1,332	1683	1,766	1,767
Total	337	404	741	1563	2,325	1,224	1,972	3196	5,433	4,327
Withdrawn	36	42	78	205	436	31	22	53	144	455

Table 2: Value of investment proposals (\$ billion)

	Current quarter	Previous quarter	Commercial			Residential real estate				
			2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	43.7	35.5	79.2	270.2	163.5	1.0	1.4	2.4	1.6	2.2
Approved without conditions	15.0	13.1	28.1	60.3	63.7	0.4	1.5	1.9	6.0	3.5
Total	58.7	48.6	107.3	330.5	227.2	1.4	2.9	4.3	7.6	5.7

Note: anomalous values or values that could identify specific transactions have been removed. The Australian Tax Office assessed some commercial applications received before December 2021.

The number of commercial investment proposals approved in this quarter was 337 (see Table 1), a decrease of 67 proposals compared to the previous quarter result of 404 proposals. In comparison, the quarterly average³ number of commercial investment proposals was 391 for 2021-22, and 581 for 2020-21. The large number of proposals approved in 2020-21 was due to the temporary zero-dollar thresholds that applied at the time in response to the COVID-19 pandemic.

³ Quarterly average has been derived from yearly total divided by four

The value of commercial investment proposals approved in this quarter was \$58.7 billion (see Table 2), an increase of \$10.1 billion compared to the previous quarter result of \$48.6 billion. In comparison, the quarterly average value of commercial investment proposals was \$82.6 billion in 2021-22, and \$56.8 billion in 2020-21.

There were 36 commercial investment proposals withdrawn in this quarter, which is less than the 42 withdrawals in the previous quarter, and less than both the 2021-22 quarterly average (51 withdrawals) and the 2020-21 quarterly average (109 withdrawals).

The number of residential proposals approved by the ATO in this quarter was 1,224.

Approved investment proposals by investment source and industry sector

In this quarter, the United States was the largest source country for commercial investment proposals by number and value (\$16.7 billion), as it was in 2021-22 and 2020-21. The next four largest source countries by value were China (\$6.7 billion), Singapore (\$5.2 billion), South Korea (\$4.2 billion) and Canada (\$3.8 billion).

Table 3: Top 10 sources of investment by value of approved commercial investment proposals

	Number					Value (\$ billion)				
	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
United States	134	203	337	746	891	16.7	11.5	28.2	118.9	57.0
China	49	56	105	273	493	6.7	1.7	8.4	4.6	11.4
Singapore	64	81	145	385	336	5.2	4.8	10.0	24.0	21.3
Republic of Korea (South Korea)	20	29	49	110	117	4.2	0.4	4.6	4.5	4.7
Canada	96	118	214	387	355	3.8	6.7	10.5	31.5	18.8
Spain	4	14	18	56	22	1.7	0.2	1.9	1.9	6.2
United Kingdom	39	64	103	223	309	0.7	1.1	1.8	6.5	5.2
Qatar	10	6	16	32	39	0.6	0.0	0.6	0.3	0.3
Czech Republic	3	1	4	1	1	0.6	0.1	0.7	0.0	0.0
Japan	34	36	70	133	153	0.6	0.8	1.4	7.1	5.1

Note: proposals involving more than one country are counted against each country.

In this quarter, China was the largest source of investment for residential real estate investment proposals by number and value (\$0.6 billion), as it was in 2021-22 and 2020-21. The next two largest sources of residential investment were Hong Kong (\$0.1 billion) and Vietnam (\$0.1 billion).

Table 4: Top 10 sources of investment by value of approved residential real estate proposals

	Current quarter	Previous quarter	Number			Value (\$ billion)				
			2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
China	440	729*	1,169	2,317	2,227	0.6	1.0	1.6	2.4	2.7
Hong Kong (SAR)	130	214	344	689	518	0.1	0.2	0.3	0.6	0.5
Vietnam	123	129	252	391	174	0.1	0.1	0.3	0.4	0.1
United Kingdom	53	58*	111	201	224	0.1	0.0	0.1	0.2	0.2
Singapore	33	168*	201	173	194	0.1	0.1	0.2	0.1	0.1
India	91	154	245	306	78	0.0	0.1	0.1	0.2	0.0
Taiwan	49	81	130	133	81	0.0	0.1	0.1	0.1	0.1
Nepal	58	68	126	140	23	0.0	0.0	0.1	0.1	0.0
Indonesia	33	60	93	95	82	0.0	0.0	0.0	0.1	0.1
Malaysia	37	85	122	158	170	0.0	0.0*	0.1	0.2	0.2

*Note: variations from previously published statistics are due to the reconciliation processes.

The largest target sector for proposed investment for the quarter by value was Commercial Real Estate, with a total value of \$19.3 billion. This is consistent with the previous quarter, where Commercial Real Estate was also the largest target industry sector for commercial foreign investment.

Table 5: Number and value of approved investment proposals by industry sector

	Number					Value (\$ billion)				
	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Commercial Real estate	109	148	257	611	907	19.3	15.2	34.5	66.6	86.6
Finance & insurance	19	26	45	105	91	12.9	5.6	18.5	94.7	10.7
Manufacturing, electricity & gas	46	54	100	134	224	12.9	5.4	18.3	37.2	35.8
Services	97	123	220	486	809	7.5	14.8	22.3	109.0	76.9
Agriculture, forestry & fishing	58	43	101	187	197	4.4	1.6	6.0	8.5	5.8
Mineral exploration & development	30	34	64	135	161	1.7	6.0	7.7	14.7	11.5
Residential Real estate	1,224	1,972	3,196	5,433	4,327	1.4	2.9	4.3	7.6	5.7

Consideration of investment proposals

In this quarter, Treasury’s median processing time for approved commercial investment proposals was 38 days. This represents a decrease from a median processing time of 44 days in the previous quarter, 52 days in 2021-22 and 51 days in 2020-21.

The decrease in median processing times is attributable to continuing improvements in efficiency of foreign investment application processing across Treasury’s investment review, compliance, governance and national security functions, which reflects the benefits of deeper experience and improved capability in the Treasury officers reviewing proposals and in the consult agencies across government. The decrease in this quarter may also be partly attributable to seasonal factors associated with the end of the calendar year.

Median processing times

Table 6: Median processing times for approved commercial investment proposals

Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
38 days	44 days	41 days	52 days	51 days

Consistent with the reduction in median processing times, there has been an increase in the number of cases processed in 30 days or less and 31 to 60 days. In this quarter, 34 per cent of proposals were considered in 30 days or less, an increase compared to 26 per cent in the previous quarter. Thirty eight per cent of proposals were considered in 31 to 60 days in this quarter, this represents a decrease from 42 per cent in the previous quarter.

Treasury makes best efforts to accommodate commercial deadlines when investors provide timelines at the outset of a process.

Chart 1: Approved investment proposal processing times (number of days)

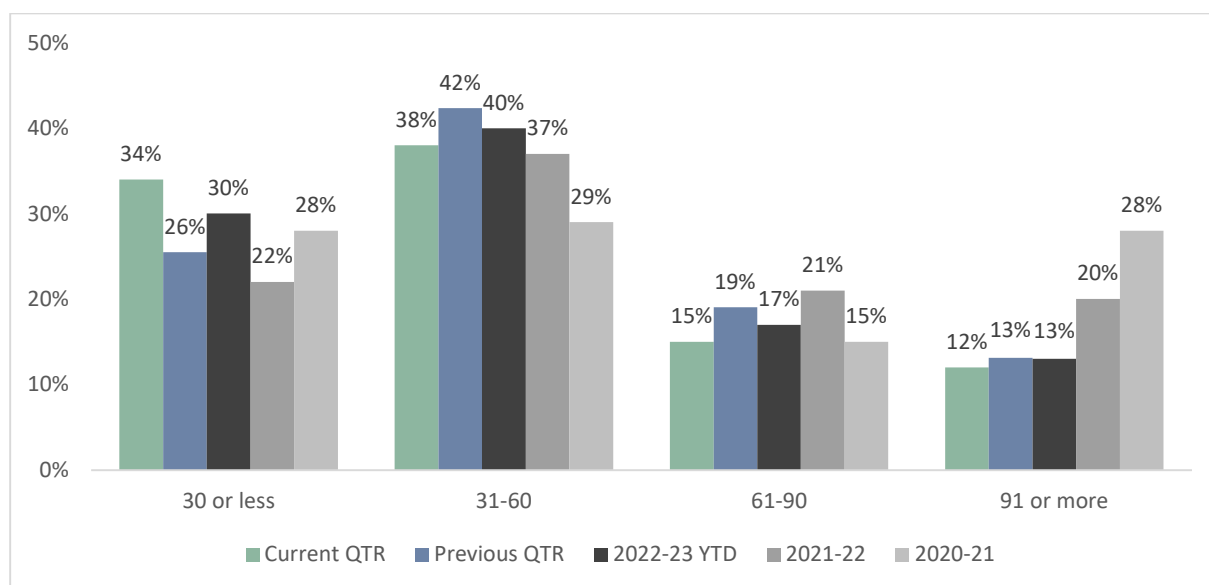


Table 7: Residential real estate investment proposal processing times

Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
6 days	6 days	6 days	5 days	6 days

The ATO's residential real estate median processing time has remained stable at 6 days which is consistent with the previous quarter.

National Security

In January 2021, foreign investment reforms⁴ came into effect that introduced new national security powers. These reforms broadened the types of transactions subject to mandatory notification and created a scheme for voluntary notification by investors for actions of any value which may pose national security concerns⁵.

⁴ See <https://www.legislation.gov.au/Details/C2020A00114>

⁵ See Guidance Note 8 on National Security for further information, <https://firb.gov.au/national-security>

Table 8: Number of approved national security investment proposals

		Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Mandatory	Approved with conditions	2	9	11	15	1
	Approved without conditions	17	21	38	44	14
	Total	19	30	49	59	15
Voluntary	Approved with conditions	1	1	2	19	3
	Approved without conditions	7	6	13	15	12
	Total	8	7	15	34	15
Both	Approved with conditions	0	0	0	5	0
	Approved without conditions	1	0	1	8	2
	Total	1	0	1	13	2

Note: Proposals are categorised as either mandatory, voluntary or both mandatory and voluntary notifications.

Table 9: Value of approved national security investment proposals (\$ billion)

	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	0.4	0.4	0.8	6.3	0.4
Approved without conditions	2	1	3	3.8	1.0
Total	2.4	1.4	3.8	10.1	1.4

Of the 337⁶ commercial foreign investment proposals the Treasury approved in this quarter, 28 related to national security actions that would not have been captured prior to January 2021. Of these national security actions, 19 were mandatory notifications, 8 were voluntary, and 1 proposal subject to mandatory notification also provided a voluntary notification within the same proposal.

Compliance

Maintaining strong compliance with Australia's foreign investment legislation is a priority for the Australian Government. It expects all foreign investors are aware of, understand and comply with their obligations under Australian law, including Australia's foreign investment laws.

The Foreign Investment Compliance Framework Statement⁷ has been developed to provide clear guidance to support foreign investors understand and meet compliance obligations. The Treasury's compliance approach seeks to minimise the regulatory burden in line with the Commonwealth Regulator Performance Framework⁸.

⁶ See Table 1

⁷ See <https://firb.gov.au/compliance-reporting>

⁸ See <https://treasury.gov.au/the-department/accountability-reporting/regulator-performance-framework>

Condition-mandated reports

Where the Treasury has imposed reporting conditions on an investment, the investor is required to submit reports that provide evidence of their compliance.

Table 10: Number of condition mandated reports

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Condition mandated reports received	486	748	1,234	2,005
Condition mandated reports assessed	772	917**	1,689	2,524*

* As the date of assessment was not recorded for the entirety of 2021-22, this data point is an estimate and includes assessments of reports from multiple financial years.

**Note: variations from previously published statistics are due to the reconciliation processes.

As at 31 December 2022, the Treasury had assessed 458 of the 486 condition mandated reports received in this quarter. The condition mandated reports that were not assessed this quarter were received in the last fortnight of the quarter and will be assessed and included in next quarter's report.

Notice of events or actions taken

Foreign investors who have been given a No Objection Notification or an Exemption Certificate from 1 January 2021 must notify the Treasurer of certain events or when they take certain actions. In this quarter the Treasury received 386 notices of events or actions taken from investors.

Table 11: Number of statutory notices received

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Notices of events or actions taken received	386	377	763	1,264

The Treasury conducts compliance-focused nudge campaigns throughout the year. These aim to educate investors of their reporting responsibilities. Nudge campaigns are used to remind investors of their reporting obligations, such as submitting required reporting on time. These are educational campaigns, which provide information, encourage better compliance outcomes and strengthen voluntary compliance.

At the beginning of this quarter a nudge campaign targeted 88 investors and their agents, reminding them of their statutory reporting obligations. Where the Treasury identifies non-compliance, we undertake a risk-based assessment and determine a proportionate response. Our assessment can include a consideration of whether this was the first time the investor had been non-compliant or whether there is a pattern of non-compliant behaviour. Further compliance actions are taken to address non-compliance as determined necessary by the assessment.

Another two campaigns were conducted targeting 22 foreign persons to ensure they were adhering to their condition mandated reporting obligations, including data conditions, subject to the *Foreign Acquisitions and Takeovers Act 1975* and related legislation.

Foreign investment audit program

The Treasury's foreign investment audit program consists of two streams of activity: regulator audits and independent audits.

- Regulator audits are risk-based, Treasury-led assurance assessments. Regulator audits are focused on testing compliance with conditions imposed in a No Objection Notification or specified in an Exemption Certificate that does not have independent audit requirements.
- Independent audits are condition mandated annual audits, imposed where a greater degree of compliance oversight is necessary and are undertaken by an independent audit firm approved by the Treasury.

Regulator audits

As Treasury continues to mature as a regulator, the 2022-23 Regulator Audit program has now been refined to focus on 12 regulator audits. This reflects the complexity, and the in-depth assessments and reviews, that result from this compliance assurance activity.

Treasury is currently undertaking 10 regulator audits as part of its 2022-23 Regulator Audit Program. All of these audits are focused on compliance with data conditions. Eight of the 10 regulator audit candidates are part of the 2022-23 Regulator Audit Program, and two candidates have been carried over from previous years’ programs.

Table 12: Number of Regulator Audits

	In progress		Completed		
	At current quarter end	Current quarter	Previous quarter	2022-23 YTD	2021-22
Regulator Audits	10	2	0	2	6

Independent audits

An independent audit report is an annual report on compliance with conditions, prepared by an independent auditor, in accordance with the relevant Australian Standards as issued by the Auditing and Assurance Standards Board.

Before an investor commissions an independent audit report, it must seek approval from the Treasury through an independent audit proposal which considers:

- the independent audit firm and team
- the scope of work underlying the audit report, and
- the level of assurance of the audit (for example, reasonable, as opposed to limited, assurance).

Independent audit statistics are reported on a per matter basis (that is, count of No Objection Notifications or Exemption Certificates).

Table 13a: Number of Independent Audits in progress

	At current quarter end
Proposals under review	23
Reports in progress by investor	9
Reports under review by Treasury	30

Table 13b: Number of Independent Audits completed

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Proposals approved	19	11	30	56
Reports completed	14	7	21	46

Referrals and assessment of potential non-compliance

As part of its compliance activities, the Treasury assesses alleged non-compliance with Australia's foreign investment laws. These assessments are triggered by:

- self-reporting by foreign investors,
- information received from members of the public concerning suspected breaches of Australia's foreign investment laws, or
- referrals received from other sources.

In this quarter, Treasury received 30 referrals of alleged non-compliance with Australia's foreign investment laws.

Table 14: Number of matters sourced via non-compliance referrals and assessments by information source

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Self-reported potential non-compliance with conditions (not including condition mandated reports)	6	11	17	44
Failure to notify related referrals/reports from the public*	14	10	24	46
Failure to notify related referrals/reports identified from other source**	10	3	13	28
Total	30	24	54	118

* Including retrospective notifications received from investors.

** Referrals from other sources can include internal referrals from other areas of the Treasury or Government, as well as Treasury-initiated referrals as a result of media monitoring and market scanning for non-compliance.

The Treasury assesses each referral using a risk-based approach and develops a specific response to each. Where we conclude that the risk posed by a referral is high, then we may proceed directly to an investigation of the alleged non-compliance.

We continued to work through a large range of sensitive and complex compliance monitoring assessments dealing with a range of potential non-compliance on issues such as data security (overseas storage and access), privacy, governance, reporting, and land development conditions.

- Over the quarter we opened 35 new sensitive and complex monitoring assessments, finalised 23, and continued ongoing engagement with several others.
- Our ongoing direct engagement with foreign persons on potential non-compliance with the framework in relation to sensitive and complex cases has helped improve investor behaviours. This includes efforts to bring foreign investors back into compliance and ensure non-compliance is avoided in the future.

Matters under investigation

The Treasury uses investigations to address serious non-compliance behaviour, such as avoidance activity. We will investigate more serious non-compliance based on factors concerning the seriousness of the alleged non-compliance. These may include:

- the nature of the behaviour of the investor,
- whether that behaviour is persistent and repeated,
- how intentional or reckless the alleged non-compliance behaviour may be, or
- the risk to Australia’s national interest or national security.

Table 15: Number of investigation matters

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Investigations completed	0	1	1	4
Investigations on hand at end of period*	2	1	2	2

*Investigations on hand at the end of the current quarter may include investigations carried over from the previous quarter.