



Australian Government
The Treasury



Quarterly Report on Foreign Investment

1 July – 30 September 2022

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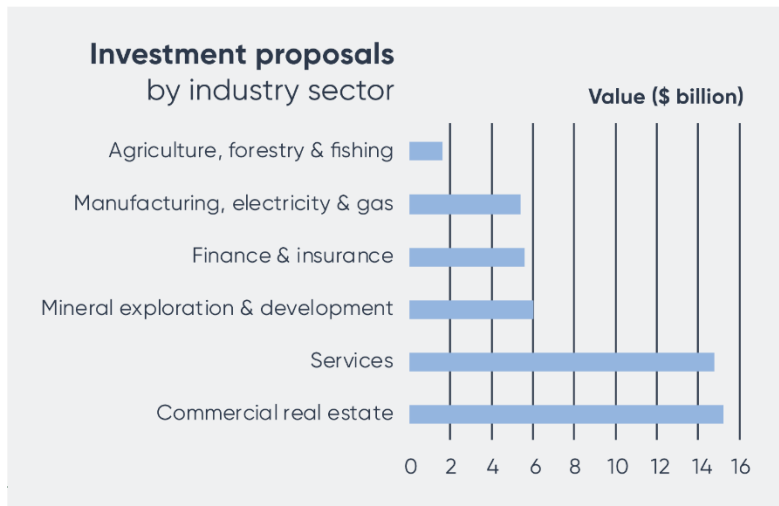
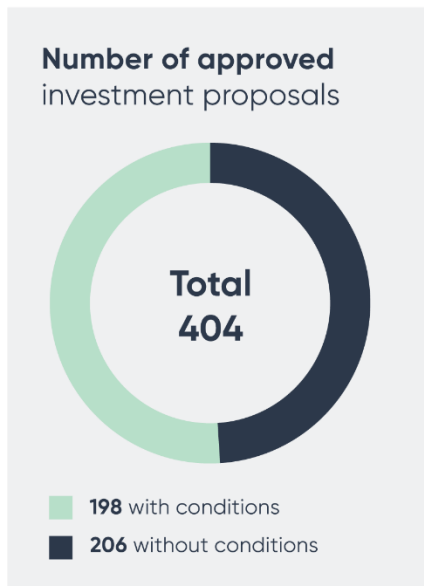
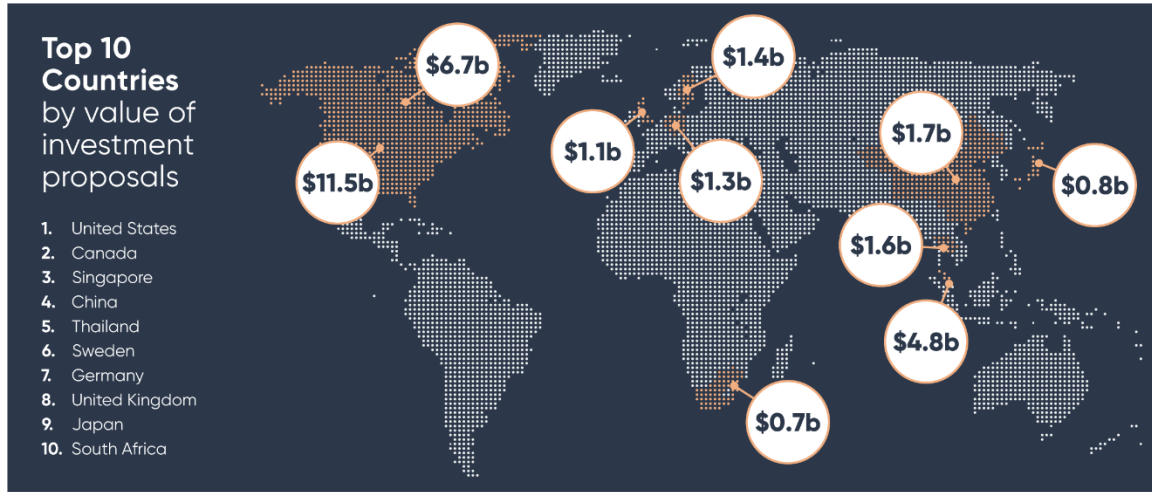
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Key foreign investment framework data

Commercial¹ data for the period 1 July – 30 September 2022



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

Foreign investment reporting 1 July to 30 September 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 first quarterly report on 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.

Future quarterly reports will provide a comparison of quarterly data. The next report will be published in February 2023. Please see the Treasury Annual Report 2021-22 for information and data concerning 2021-22.²

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 investor; or where the proposal was incorrectly lodged.

Investment proposals by number and value

Table 1: Number of investment proposals

	Current quarter	Commercial			Residential real estate			
		2022-23 YTD	2021-22	2020-21	Current quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	198	198	804	821	640	640	3,667	2,560
Approved without conditions	206	206	759	1,504	1,332	1,332	1,766	1,767
Total	404	404	1,563	2,325	1,972	1,972	5,433	4,327
Withdrawn	42	42	205	436	22	22	144	455

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

	Current quarter	Commercial			Residential real estate			
		2022-23 YTD	2021-22	2020-21	Current quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	35.5	35.5	270.2	163.5	1.4	1.4	1.6	2.2
Approved without conditions	13.1	13.1	60.3	63.7	1.5	1.5	6.0	3.5
Total	48.6	48.6	330.5	227.2	2.9	2.9	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 proposals approved this quarter was 404 (see Table 1), an increase compared to the 2021-22 quarterly average³ of 391 and a decrease compared to the 2020-21 quarterly average of 581.

The value of commercial investment proposals was \$48.6 billion (see Table 2), a decrease compared to the 2021-22 quarterly average of \$82.6 billion, and the 2020-21 quarterly average of \$56.8 billion.

There were 42 commercial investment proposals withdrawn in this quarter. This is broadly comparable with the 2021-22 quarterly average.

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

The number of residential proposals approved by the ATO in this quarter was 1,972.

Approved investment proposals by industry and sector

In this quarter, the United States was the largest source country for commercial investment proposals by number and value (\$11.5 billion) as it was in 2021-22 and 2020-21. The next four source countries are Canada (\$6.7 billion), Singapore (\$4.8 billion), China (\$1.7 billion) and Thailand (\$1.6 billion).

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

	Number				Value (\$ billion)			
	Current quarter	2022-23 YTD	2021-22	2020-21	Current quarter	2022-23 YTD	2021-22	2020-21
United States	203	203	746	891	11.5	11.5	118.9	57.0
Canada	118	118	387	355	6.7	6.7	31.5	18.8
Singapore	81	81	385	336	4.8	4.8	24.0	21.3
China	56	56	273	493	1.7	1.7	4.6	11.4
Thailand	11	11	26	16	1.6	1.6	2.6	0.3
Sweden	15	15	40	46	1.4	1.4	3.5	1.9
Germany	37	37	117	138	1.3	1.3	6.0	12
United Kingdom	64	64	223	309	1.1	1.1	6.5	5.2
Japan	36	36	133	153	0.8	0.8	7.1	5.1
South Africa	13	13	32	55	0.7	0.7	0.7	6.5

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

In this quarter, China was the largest source country for residential real estate investment proposals by number and value (\$1.0 billion), as it was in 2021-22 and 2020-21. The next two sources of investment were Hong Kong (\$0.2 billion) and Vietnam (\$0.1 billion).

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

	Number				Value (\$ billion)			
	Current quarter	2022-23 YTD	2021-22	2020-21	Current quarter	2022-23 YTD	2021-22	2020-21
China	731	731	2,317	2,227	1.0	1.0	2.4	2.7
Hong Kong	214	214	689	518	0.2	0.2	0.6	0.5
Vietnam	129	129	391	174	0.1	0.1	0.4	0.1
Singapore	165	165	173	194	0.1	0.1	0.1	0.1
India	154	154	306	78	0.1	0.1	0.2	0.0
Taiwan	81	81	133	81	0.1	0.1	0.1	0.1
Malaysia	85	85	158	170	0.1	0.1	0.2	0.2
Indonesia	60	60	95	82	0.0	0.0	0.1	0.1
Nepal	68	68	140	23	0.0	0.0	0.1	0.0
United Kingdom	57	57	201	224	0.0	0.0	0.2	0.2

The largest target industry for proposed investment for the quarter by value was Commercial Real Estate, with a total value of \$15.2 billion. This is a decrease compared to the quarterly average of \$16.7 billion in 2021-22.

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

	Number				Value (\$ billion)			
	Current quarter	2022-23 YTD	2021-22	2020-21	Current quarter	2022-23 YTD	2021-22	2020-21
Commercial real estate	148	148	611	907	15.2	15.2	66.6	86.6
Services	123	123	486	809	14.8	14.8	109.0	76.9
Mineral exploration & development	34	34	135	161	6.0	6.0	14.7	11.5
Finance & insurance	26	26	105	91	5.6	5.6	94.7	10.7
Manufacturing, electricity & gas	54	54	134	224	5.4	5.4	37.2	35.8
Residential real estate	1,972	1,972	5,433	4,327	2.9	2.9	7.6	5.7
Agriculture, forestry & fishing	43	43	187	197	1.6	1.6	8.5	5.8

Consideration of investment proposals

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

The decrease in median processing times is attributable to improved efficiency in 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.

Median processing times

Table 6: Median processing times for approved commercial investment proposals

Current quarter	2022-23 YTD	2021-22	2020-21
44 days	44 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, 25.5 per cent of proposals were considered in 30 days or less and 42.3 per cent in 31 to 60 days.

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)

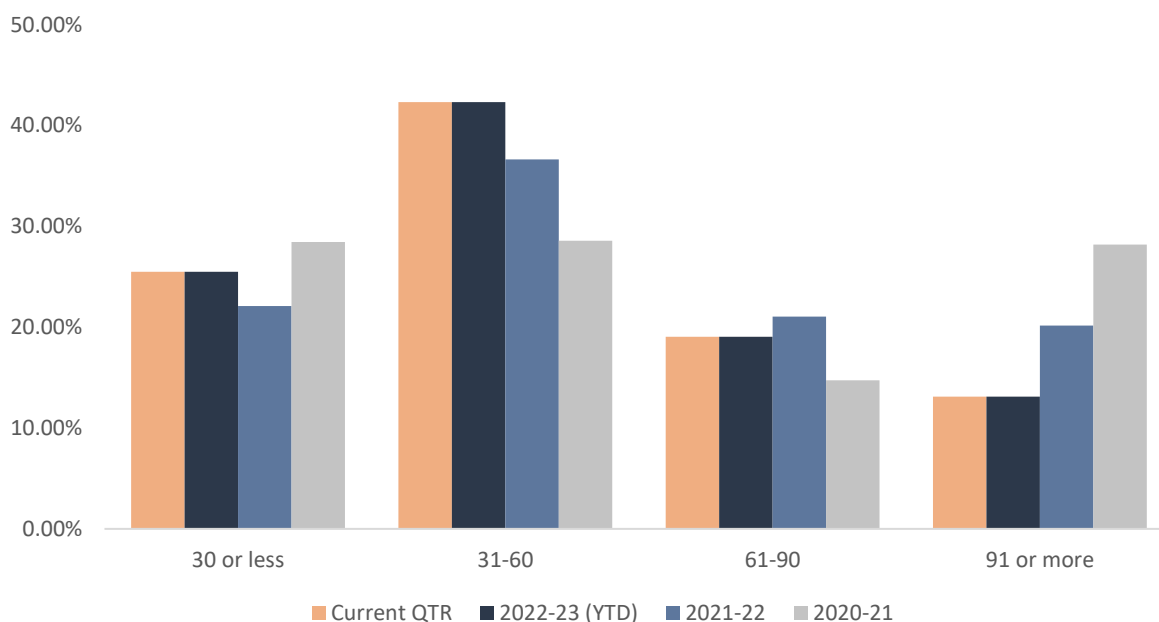


Table 7: Residential real estate investment proposal processing times

Current quarter	2022-23 YTD	2021-22	2020-21
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 2021-22 levels.

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

Note: Proposals are categorised as either mandatory, voluntary or both where there are multiple actions within one proposal that include mandatory and voluntary notifications.

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

	Current quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	0.4	0.4	6.3	0.4
Approved without conditions	1.0	1.0	3.8	1.0
Total	1.4	1.4	10.1	1.4

Of the 404⁶ commercial foreign investment proposals the Treasury received in this quarter, 37 related to national security actions that would not have been captured prior to January 2021. Of these national security actions, 30 were mandatory notifications and 7 were voluntary.

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.

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.

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>

Table 10: Number of condition mandated reports

	Current Quarter	2022-23 YTD	2021-22
Condition mandated reports received	748	748	2,005
Condition mandated reports assessed	916	916	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.

As at 30 September 2022, the Treasury had assessed 657 of the 748 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 377 notices of events or actions taken from investors.

Table 11: Number of statutory notices received

	Current Quarter	2022-23 YTD	2021-22
Notices of events or actions taken received	377	377	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 246 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.

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

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. Six of the 10 regulator audit

candidates are part of the 2022-23 Regulator Audit Program, and four candidates have been carried over from previous years' programs.

The Treasury is currently on track to meet its target of 20 regulator audits as part of its 2022-23 Regulator Audit Program.

Table 12: Number of Regulator Audits

	In progress At current quarter end	Current quarter	Completed 2022-23 YTD	2021-22
Regulator Audits	10	0	0	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	14
Reports in progress by investor	5
Reports under review by Treasury	32

Table 13b: Number of Independent Audits completed

	Current Quarter	2022-23 YTD	2021-22
Proposals approved	11	11	56
Reports completed	7	7	46

Referrals and assessment of potential non-compliance

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

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

In this quarter, Treasury received 24 referrals of alleged non-compliance with foreign investment laws.

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

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

* Including retrospective notifications received from investors.

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.

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	2022-23 YTD	2021-22
Investigations completed	1	1	4
Investigations on hand at end of period	1	1	2