



Australian Government
The Treasury



2021 Foreign Investment Reforms

Post-implementation Review

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

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Introduction

Foreign investment is crucial to Australia's prosperity. It helps drive economic growth, creates skilled jobs, improves access to overseas markets and improves productivity, competition and innovation.

However, over recent years, the risks from foreign investment to Australia's national interest, particularly national security, have increased due to a confluence of developments including rapid technological change and changes in the international security environment.

Australia's foreign investment framework (the framework) allows the Government to review foreign investment proposals to ensure they are not contrary to the national interest.

On 5 June 2020, the Treasurer announced a major package of foreign investment reforms to address these risks and improve the overall operation of the framework. On 9 December 2020, the Parliament passed legislation that gave effect to the most significant reforms to the framework since its establishment in 1975. On 1 January 2021, legislation came into force that introduced a package of reforms to enable the Australian Government to better address emerging national security risks that arise from foreign ownership. There were also measures to reduce the regulatory burden for certain investments that do not pose national security risks and provide greater clarity on the scope and application of the *Foreign Acquisitions and Takeovers Act, 1975* (FATA). The reforms included:

- new national security powers and actions
- expanded compliance, monitoring and enforcement capabilities;
- measures to streamline the foreign investment process for passive investors and non-sensitive investments;
- fairer and simpler application fee arrangements;
- modernising Australia's foreign investment IT platform; and
- the creation of a Register of Foreign Ownership of Australian Assets.

The 2021 reforms aimed to ensure the framework continued to balance:

- maintaining Australia as an attractive place for foreign investment with a regulatory framework that promotes business certainty and delivers timely decisions;
- maintaining public confidence in the integrity of the framework, including compliance; and
- protecting Australia's national interest including national security.

The reforms were enacted through the Foreign Investment Reform (Protecting Australia's National Security) Act 2020 and the Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2020, along with supporting regulations: the Foreign Investment Reform (Protecting Australia's National Security) Regulations 2020 and the Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020).

A post-implementation review (PIR) of the 2021 reforms is required to be undertaken in accordance with the Australian Government's regulatory impact analysis requirements due to the scope and the substantial impact of the reforms

1. Background

The 2021 reforms introduced the following powers and changes.

1.1 Protecting Australia's national security

The national security aspect of the reforms introduced:

- two new types of foreign investment actions – notifiable national security actions (NNSAs) and reviewable national security actions (RNSAs)
- new definitions such as 'national security business' and 'national security land'.

The reforms also introduced the ability for the Treasurer to 'call in' foreign investments that are not otherwise captured by the framework but raise national security concerns, and a 'last resort' power to be used in exceptional circumstances to vary conditions or force divestment.

1.2 Improving the integrity of the foreign investment review framework

The reforms introduced key changes to improve the integrity of the framework by:

- considering some actions as significant actions without requiring the change in control test to be met where the foreign person already has control
- expanding tracing rules to unincorporated limited partnerships
- providing the Treasurer with the ability to extend or further extend the decision period for applications by up to 90 days
- providing the Treasurer with the ability to make a new order or decision prohibiting an action if a court finds that an earlier order or decision was invalid, and the original decision period has expired
- allowing for greater information sharing domestically and internationally with foreign counterparts.

1.3 Stronger compliance and enforcement powers

The reforms introduced stronger and more flexible compliance and enforcement powers to enhance the Treasury's and the Australian Taxation Office's (ATO) ability to monitor, investigate and pursue breaches of Australia's foreign investment laws. This included:

- expanding the infringement notices regime to cover all types of foreign investments and introducing a third tier to allow for a more graduated approach to enforcement
- increasing civil and criminal penalties to ensure penalties act as an effective deterrent
- providing the ability to revoke a no objection notification or exemption certificate where a foreign person has given false or misleading information
- requiring foreign persons who have been issued a no objection notification or an exemption certificate to notify the Government of certain events
- introducing new powers to give directions to investors to prevent or address suspected breaches of conditions or of foreign investment laws
- providing standard monitoring and investigative powers (in line with other regulators)
- providing the ability to accept enforceable undertakings from foreign persons.

1.4 Streamlining less sensitive investments

The reforms introduced measures to streamline less sensitive investments such as:

- no longer requiring approvals for private foreign investors for acquisitions of exploration tenements or certain revenue streams from mining and production tenements that do not provide rights, control or influence
- treating certain investment funds as private foreign investors rather than foreign government investors and introducing the concept of a passive foreign government investor exemption certificate.

1.5 Register of Foreign Owned Australian Assets (the Register)

The reforms created the Register, which incorporated the Register of Foreign Ownership of Residential Land, Register of Foreign Ownership of Water Entitlements and Register of Foreign Ownership of Agricultural Land.

It also created additional obligations to:

- notify the Registrar of a broader range of interests including business interests, commercial land and mining or production tenements and exploration tenements
- register certain events such as disposal of an asset, changes in foreign person status or the nature of an interest in an asset.

1.6 A fairer and simpler framework for foreign investment fees

The reforms established authority for regulations to charge existing and new fees (as well as the types of fees that could be prescribed) for new actions (NNSAs and RNSAs) and fees for retrospective actions. The reforms also established a maximum cap on fees payable for foreign investment applications.

1.7 Modernising Australia's foreign investment ICT platform for better case management, compliance enforcement and data use

The reforms were supported by additional funding for the Treasury to upgrade its foreign investment case management system and uplift its capability as the regulator of foreign investment in Australia.

Funding was also provided to the ATO for the development of an online services portal for foreign investors to submit residential property applications and maintain asset registrations in the Register

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2. What problem was the policy meant to solve?

Foreign investment is vital to Australia's economic growth and prosperity. By supplementing domestic savings, foreign investment facilitates a greater level of investment in the economy than would otherwise be sustainable. Foreign investment also supports competition, innovation and dynamism. The foreign investment framework is fundamental in maintaining Australia's attractiveness as an investment destination. However, the framework needs to evolve to changes in the operating context over time.

The key changes and problems identified at the time, which informed the development of the 2021 reforms, are outlined below. Further details of these problems can be found in the Regulation Impact Statements (RIS)¹ prepared and certified by the Department of the Treasury (Treasury).²

A. Insufficiently equipped framework to manage increasing risk of foreign investment to Australia's national interest.

There was an increasing risk from foreign investment to Australia's national interest, particularly in relation to national security, including:

- technological developments and digitalisation that turned personal data and companies that possess such data into sensitive assets that may be subject to misuse or malicious manipulation
- a shift in global economic weights (i.e. the rising share of global economic activity from developing economies, relative to the established economies of Europe and North America) that has created new dependencies, interests and threats
- heightened sensitivity over the control of assets that constitute critical infrastructure
- new and more widely shared concerns, in addition to espionage and sabotage, about diversity of suppliers and access to advanced technology, today and in the future.

Prior to the reforms, Australia's foreign investment framework was insufficiently equipped to capture and manage many of the risks that foreign ownership can pose. Most notably, the framework had a 'screening gap', whereby low-value non-residential private foreign investments could proceed into Australia without any government oversight, even where they may pose significant national security risks. The reforms were also considered alongside other legislation outside the foreign investment framework aimed at improving Australia's regulatory ecosystem regarding national security, including countering foreign interference and ensuring the security of critical infrastructure assets.

Prior to the reforms, foreign persons were only required to seek government approval for non-residential investments above certain monetary and percentage thresholds dependent on the target sector and country of investor. While foreign government investors faced a zero-dollar threshold, for most private investors this threshold was \$275 million (or up to \$1,192 million for investors from certain Free Trade Agreement countries). The presence of such thresholds meant that low-value investments could occur without screening even into Australia's most sensitive sectors. These sectors were particularly vulnerable as their specialised expertise often meant

1 Department of the Treasury (The Treasury) '[Regulation Impact Statement – Foreign Investment Reform Package 2020](#)', *The Office of Best Practice Regulation*, 11 November 2020, accessed 15 May 2025.

2 A RIS was prepared due to the impacts of the 2021 reforms proposal. The RIS assesses how the reforms would have affected people, businesses and community as well as its broader economic and competition impacts.

they were comprised of a large number of new and/or smaller firms, with valuations frequently well below the screening thresholds that existed at the time.

Having the capability to screen these acquisitions aimed to ensure that the Government has a greater ability to identify and address national security risks that may arise, including risks to critical Defence and intelligence capabilities, supply chains, and data.

B. Limitations which created investor uncertainty and administrative challenges.

Prior to the reforms, there were limitations on the Government's ability to effectively address national interest and security risks, particularly where limited partnerships are used as a vehicle for investment in critical infrastructure and other sensitive sectors. For example, the effects of certain capital reductions (such as a company undertaking a strategy of share buybacks) presented a potential gap in the Government's ability to address national interest risks with respect to previously approved foreign investors increasing their percentage. Another example was the inconsistent application of the tracing rules. Tracing provisions had only applied to interests in trusts and companies and could not be applied to unincorporated limited partnerships. Feedback from stakeholders had consistently called for these issues to be clarified to give investors greater confidence in the framework.

C. Limited compliance monitoring and enforcement tools.

Prior to the reforms, the Government's compliance monitoring and enforcement tools were limited, and did not act as an effective deterrent to non-compliance. For example, penalty amounts at the time were low, and the Government lacked sufficient monitoring and investigative powers to be able to draw reliable compliance conclusions in some situations. The Government also could not respond proportionately to issues of identified non-compliance and would have been left with no option but to pursue court action to enforce conditions, even in cases where the breach of condition was only minor.

In the five years prior to the reforms, as the risks from foreign ownership grew, the Government increasingly used conditions to manage those risks while still allowing investments to proceed. In 2018–19, 80 per cent of approved cases by value had conditions attached to them, compared to 35 per cent in 2015–16. This increased use of conditions placed pressure on the Government's ability to monitor and enforce compliance effectively.

D. Complex and burdensome framework for less sensitive investments.

Prior to the reforms, some stakeholders had stated that the framework was burdensome and complex to navigate, particularly for less sensitive investments. This includes investments made by large privately controlled and managed investment funds which are regularly screened under foreign government investor screening rules due to the presence of foreign government investors in their funds. Delays in case processing times were consistently raised by some stakeholders as an ongoing source of concern – with the indicative median processing time for Treasury cases in 2018–19 being 45 days, relative to the statutory deadline that sets an initial case processing timeframe of 30 days. These shortcomings were some of the most frequently raised concerns during the consultation process for the 2021 reforms. They frustrated investors (both lower risk investors, and those whose applications take longer than 30 days to process), and risked impeding valuable foreign investment into Australia.

E. Limited data collected on actual foreign investments made into certain sectors of the economy.

Prior to the reforms, the Government collected data on proposed investments through applications, and information about realised foreign investments made into certain sectors of the economy through registers – that being residential land, agricultural land, water interests, media businesses and critical infrastructure. However, it did not collect data on actual investments made into other sectors of the economy, including many Australian businesses. This limited the Government's ability to assess cases,

monitor and enforce compliance with conditions imposed on investments, and draw on a robust data set to inform policy development.

The data the Government did hold was spread out across different government regulators and was underpinned by different legislation. This made it difficult to form a cohesive picture, identify trends, and properly assess the benefits and risks of foreign investment. The lack of data on what foreign investors owned in Australia also risked undermining the Government's ability to provide robust and evidence-based information to the community, including in response to Parliamentary questions and inquiries and in annual reports.

F. Complex fee framework.

In 2015, the Government introduced foreign investment application fees to ensure that the cost of administering the foreign investment framework was borne by foreign investors, not Australian taxpayers. However, the fee framework had evolved over time to become complex and difficult to navigate. For example, fees were spread across both the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* and the *Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015*, making it difficult and time consuming for applicants and their advisers to determine the appropriate fee. The complexity of the framework resulted in uncertainty for both investors and government in determining the correct application fee, and it was identified that the fee framework would benefit from review and simplification.

G. Outdated system unable to keep up with evolving operational demands such as case management and reporting.

Treasury's IT system prior the reforms had not kept pace with evolving operational demands. It was not a functional case management system, nor did it effectively support compliance activity. The accessibility and useability of quality, accurate and current data was, at times, limited.

3. Why was government action needed?

The regulation of foreign investment is a long-standing function of the Government. The legal framework is set out in the *Foreign Acquisitions and Takeovers Act 1975* (FATA), along with its supporting regulations, fees framework and data collection Acts.

The regulation of foreign investment, and the problems that the reform package aimed to address at the time, involved both the consideration of highly sensitive issues such as risks to the national interest (particularly national security) and balancing Australia's economic interests.

The need to ensure that risks to national security are properly assessed with full access to all of the necessary information, and the concurrent need to keep investors commercially sensitive information confidential, means the Government is the only appropriate body to perform this function.

The reforms included measures to strengthen the existing framework with:

- enhanced national security review of sensitive acquisitions
- extra powers and resources to ensure foreign investors comply with the terms of their approval
- amendments to streamline investment in non-sensitive areas.

In particular, the national security reforms aimed to enable the Government to better address emerging national security risks that arise from foreign ownership, such as through powers to screen certain foreign investment on national security grounds regardless of value. There were also measures to reduce the regulatory burden for certain investments that do not pose national security risks and provide greater clarity on the scope and application of the FATA.

The reforms were not expected to significantly impact on foreign capital inflows to Australia. While it was estimated that the reforms would likely impose some additional regulatory burden on investors, this was not expected to be a significant deterrent to foreign investment in Australia. Foreign investor survey data consistently reinforces that market factors play the most significant role in a firm's foreign investment decisions.³

The reforms were also expected to improve case processing times, in part due to an improved IT case management system, better data collection, better reporting of foreign investments realised in Australia from the new Register and additional staff resourcing.

Importantly, the reforms aimed to preserve the core principle underpinning Australia's foreign investment system – that Australia welcomes foreign investment for the significant economic benefits it provides. Under the reforms, the Government aimed to continue to review individual investments on a case-by-case basis to ensure they are not contrary to the national interest. This was critical to both protecting Australia's national interest and maintaining the Australian public's confidence in the foreign investment regime.

Australia was not alone in recognising and responding to the rising national security challenges posed by foreign ownership prior to these reforms. Many other countries – including Canada, China, the European Union, Japan, New Zealand, the United Kingdom and the United States – also updated their foreign investment rules at similar times for similar reasons.

3 The Treasury, 'Regulation Impact Statement – Foreign Investment Reform Package 2020'.

This package of measures aimed to build on the reforms to the foreign investment framework that the Government introduced in 2015 to modernise the FATA by:

- bringing all foreign investment into the legislative framework rather than relying on previous policy statements
- strengthening the Government's oversight and enforcement of the residential real estate sector
- providing greater scrutiny and transparency around agricultural investments
- introducing fees so that the cost of administering the foreign investment regime is borne by foreign investors and not Australian taxpayers.

The reforms aimed to ensure that the foreign investment framework continued to balance:

- maintaining Australia as an attractive place for foreign investment, with a regulatory framework that promotes business certainty and delivers timely decisions
- maintaining public confidence in the integrity of the framework, including compliance
- protecting Australia's national interest, including national security.

4. What policy options were considered?

As outlined in the RIS,⁴ Treasury, in consultation with its stakeholders, considered three broad options to address the identified problems at the time of the 2021 reforms:

- *Option 1*: Maintaining the existing arrangements without amendment.
- *Option 2*: A balanced option that provides for adequate protection of the national interest, particularly national security, while still facilitating and attracting foreign investment into Australia.
- *Option 3*: An option that significantly increases (or decreases) the protection of Australia's assets, depending on the relevant policy objective, such as changing screening requirements to remove change of control requirements to capture a wider range of investments that did not get screened prior to the reforms.

The then Government chose to implement *Option 2* for each of the policy packages to address the identified problems outlined in Section 3 above (see Table 5.1). Sections 5.1 to 5.7 below provide details of *Option 2* policies and high-level summaries of *Option 1* and *Option 3* considered at the time. Further information on *Option 1* and *Option 3* can be found in Section 3 of the RIS. The implementation of *Option 2* and its impacts are discussed in detail from Section 6 onwards.

Option 2 was chosen based on consideration of the cost and benefit of each option outlined in Section 6 of the RIS. *Option 2* provided a comprehensive suite of reforms aiming to strengthen the foreign investment framework to ensure that it kept pace in a fast-changing environment where national interest risks, especially national security risks, from foreign ownership have increased.

Table 5.1: Mapping of problems and policies implemented to address problem

Identified problems at the time of the 2020 reforms	Policies implemented
A. Insufficiently equipped framework to manage increasing risk of foreign investment to Australia's national interest	1. Protecting Australia's national security
B. Limitations which created investor uncertainty and administrative challenges	2. Improving the integrity of the foreign investment review framework
C. Limited compliance monitoring and enforcement tools	3. Stronger compliance and enforcement powers
D. Complex and burdensome for less sensitive investments.	4. Streamlining less sensitive investments
E. Limited data collected on actual foreign investments made into certain sectors of the economy	5. Register of Foreign Owned Australian Assets (the Register)
F. Complex fee framework	6. A fairer and simpler framework for foreign investment fees
G. Outdated system to keep up with evolving operational demands such as case management and reporting	7. Modernising Australia's foreign investment ICT platform for better case management, compliance enforcement and data use

As outlined in the RIS, choosing *Option 1* would have resulted in the problems outlined in Table 5.1 above to persist and potentially grow over time. *Option 3* would have introduced more uncertainty and regulatory burden on investors, required more resources, decreased regulatory oversight of actions that may be contrary to national interest, and potentially increased inequities between fee tiers.

4 The Treasury, 'Regulation Impact Statement – Foreign Investment Reform Package 2020'.

4.1 Protecting Australia's national security

As noted above, the risks from foreign investment to Australia's national interest, particularly national security, have increased as a result of a confluence of developments, including rapid technological change and changes in the international security environment.

Option 1 – status quo

Under this option, the Government would have continued to screen only those foreign investments that meet certain criteria, such as monetary or percentage thresholds that are dependent on the nature of the investment, the target sector, and the country of the investor. The Government would have continued to have limited ability to manage foreign involvement in sensitive sectors, including in situations where point-in-time approvals (including conditions to protect national security) are made redundant due to rapid technological change, or where the nature of the security risks change subsequent to approval.

Option 2 – a balanced approach

Under this chosen option, the Government aimed to expand the foreign investment framework to enable the review of proposed actions categorised as notifiable national security actions or reviewable national security actions. In general, these actions fell below the existing monetary or percentage screening thresholds prior to the reforms, but in some way presented national security concerns. These actions were to be assessed as to whether they are contrary to national security.

Under this test, a foreign person acquiring a direct interest (generally at least 10 per cent, or a position of control) in a 'national security business', starting to carry on the activities of such a business, or acquiring an interest in Australian land or a tenement that is 'national security land', would need to notify and obtain foreign investment approval prior to making the investment. This aimed to ensure foreign investment that could raise national security concerns is screened irrespective of the value of the investment or whether the acquirer is a private investor or a foreign government investor.

'National security land' is generally a defence premises or land that is of interest to an intelligence agency and that interest is publicly known or confirmable.

In brief, a 'national security business' can be any of the following:

- 'Responsible entities' and 'direct interest holders' of critical infrastructure assets, within the meaning of the *Security of Critical Infrastructure Act 2018* (SOCI), and 'carriers' and 'carriage service providers' to which the *Telecommunications Act 1997* applies
- Businesses that develop, manufacture or supply critical goods, technologies or services that will be used (or are intended for use) by defence and intelligence personnel, or the defence force of another country, in activities that may affect Australia's national security
- Businesses that own, store, collect or maintain classified data, or personal data relating to Australia's defence and intelligence personnel that, if disclosed or accessed, could compromise Australia's national security.

The overwhelming majority of stakeholders during the exposure draft consultation periods were supportive of the Government's proposed 'national security business' definition and did not raise substantive issues. However, some stakeholders did express concerns that in the case of a hostile takeover (for example), the target may not provide the required information for the acquirer to be

able to determine whether it falls within the definition. Similarly, the acquirer may not be able to ascertain such information, or more broadly, what constitutes 'defence land' from public information. To address this concern, a reasonableness test was included in the proposed measure to take into account instances where investors may not have notified the Government because they (reasonably) did not know the target fell into the definition of a national security business.

The Government aimed to provide guidance material on the definition of 'national security business' and 'national security land' to clarify the application of the definition and to support investors in navigating the reforms more broadly. See Section 9 below for more detail on implementation of the reforms.

In addition, certain investments not otherwise notified under the existing national interest or new national security mandatory pre-investment notification processes would be able to be 'called in' before, during or after the investment, on a case-by-case basis if the Treasurer considers the investment could raise national security concerns. Once called in, an investment would be reviewed under the national security test to determine if it raises national security concerns, consistent with the same process as those investors who notify on a mandatory basis.

The use of the 'call in' power would be time-limited and public guidance would be provided on the type of investments where the 'call in' power is most likely to be used. This was consistent with existing practice prior to and since the reforms, where guidance material is provided on the foreign investment website.

For greater regulatory certainty, investors would have the opportunity to voluntarily notify (on a per-investment basis), including pre-acquisition, to avoid the possibility of being called in for review on national security grounds at a later stage.

It was intended that investors would also be able to apply for a time-limited, investor-specific exemption certificate which would have enabled them to make eligible acquisitions without the need for case-by-case screening. This investor-specific exemption certificate was intended to be additional to the existing exemption certificates available for acquisitions of businesses, land and land entities, and mining and exploration tenements. Exemption certificates may range in length and value, and would be subject to conditions, including reporting conditions where necessary.

Finally, under this option, the Government also aimed to introduce a national security last resort review power to reassess approved foreign investments where subsequent national security risks emerge. The last resort review power would allow the Treasurer to impose conditions, vary existing conditions or, as a last resort, require the divestment of foreign interests in a business, entity or land. The last resort review power would not be retrospective and would only be applicable to any future foreign investment that is reviewed under the FATA.

The purpose of the last resort review power aimed to address a gap in Australia's approach to managing foreign involvement in sensitive sectors – where point-in-time approvals, including conditions to protect national security, are made redundant due to rapid technological change, or where the nature of the security risks posed change subsequent to approval.

Recognising the significant implications for investors, and the need for transparency and investor certainty, this power was intended to be subject to significant safeguards, including the availability of merits review, and requirements that the Treasurer be satisfied that:

- reasonable steps have been taken to negotiate in good faith with the foreign investor to achieve an outcome of eliminating or reducing the risk without action under the *Foreign Acquisitions and Takeovers Act, 1975* (FATA)
- requiring the investor to comply with an order is reasonably necessary to eliminate or reduce the national security risk
- there are no other regulatory mechanisms outside the FATA that can be used to adequately address the identified risk.

Option 3 – significant increase in the protection of Australia’s assets

This option would have involved permanently lowering the monetary screening thresholds for all investments subject to the FATA to zero dollars, consistent with temporary arrangements that were introduced in March 2020 in response to the coronavirus outbreak. This option would have significantly tightened screening arrangements for private investors, and would have required more investments (for example, low-value investments that are ordinarily out of scope of screening) to be notified to the Government for pre-acquisition screening.

4.2 Improving the integrity of the foreign investment review framework

As noted above, the foreign investment framework had a number of shortcomings that detracted from the integrity of the framework. These shortcomings created investor uncertainty and inhibited the Government’s ability to effectively administer the framework.

Option 1 – status quo

Under this option, the framework would have continued to have various shortcomings that detract from its integrity and raise uncertainties about its application in a range of situations. Investors would continue to be able to exploit the gaps and loopholes in the legislation, should they choose, and the Government would have limited ability to screen or prohibit these investments. Even where they sought to do the right thing, in certain circumstances investors would continue to be unsure about their obligations.

Option 2 – a balanced approach

Under this chosen option, the Government aimed to clarify that foreign persons may require further foreign investment approval for increases in actual or proportional holdings above what has been previously approved, including as a result of creep acquisitions and proportional increases through share buybacks and selective capital reductions.

Prior to the reforms, not all increases in shareholdings of an Australian business or entity were significant actions if the acquisition did not result in a change of control as provided under section 54 of the FATA. This meant that private investors were able to increase their holdings in a target Australian business or entity over time, and the Treasurer’s powers under the FATA were not

enlivened. The amendments aimed to provide that in some circumstances, the 'change of control' test would no longer be a factor in determining that an action is a significant action once a foreign person controls an entity or business – thereby clarifying a source of uncertainty under the law prior to the reforms.

In addition, the Government aimed to narrow the scope of the moneylending exemption so that it does not apply where foreign money lenders are obtaining interests in a sensitive national security business or land under a moneylending agreement.

The types of government assets that would be subject to scrutiny under the FATA would also be expanded (from critical infrastructure asset sales) to include acquisitions of sensitive national security businesses or land, including where they involve the privatisation of government functions or services in those areas. This aimed to ensure that national security factors are considered in the context of such sales, consistent with the proposed new national security test under the FATA.

Further amendments aimed to ensure that the tracing rules could be applied to unincorporated limited partnerships, as they are to corporations and trusts, so that beneficial interests can be traced. Prior to the reforms, under the tracing rules, a person was taken to hold interests in securities in companies or trusts which are lower in the corporate structure where certain requirements are met. These tracing rules could not be applied to unincorporated limited partnerships, limiting the Government's ability to impose conditions where an unincorporated limited partnership is used in a business structure. Extending the tracing rules to apply to unincorporated limited partnerships aimed to enable the Government to impose conditions on the higher entities in the organisational structure where required to manage national interest risks. Depending on the type of acquisitions and the risks being mitigated, conditions may vary from tax conditions, conditions relating to the proximity of an asset to a Defence establishment, or conditions relating to the management of data.

Furthermore, under this option, the FATA was also amended to enable greater information sharing among government agencies in particular circumstances, as well as with foreign governments, for the purpose of enhancing compliance and better addressing national security risks.

Option 3 – significant increase in the protection of Australia's assets

This option would have involved a more stringent approach to the screening of foreign investment proposals than under Option 2. For example, under this option, the 'change of control' requirement within the FATA would have been removed completely, which would have been likely to result in more foreign investment proposals being subject to the Treasurer's powers. The information sharing provisions of the FATA would have also been significantly expanded under this option, on a broad principles-based approach, to allow the regulator to share protected information with any government agencies where it is in the national interest to do so.

4.3 Stronger compliance and enforcement powers

Compliance activities are fundamental to the integrity of the foreign investment framework. They provide assurance that foreign persons are meeting their obligations while minimising the regulatory burden and ensuring a level playing field for all investors.

However, as noted above, there was a need to expand the Government's compliance monitoring and enforcement powers, as the available powers prior to the reforms was not an effective deterrent to non-compliance.

Option 1 – status quo

Under this option, the Government's compliance and enforcement powers would have remained quite limited for investments not administered by the Commissioner of Taxation. The FATA did not include monitoring or investigative powers which were limited to requests for information and documents under section 133 of the FATA. The *Tax Administration Act 1953* (TAA) provides broad information gathering powers to the ATO which could be utilised in monitoring and enforcing compliance in relation to aspects of the foreign investment framework administered by the ATO (largely residential real estate investments). Monitoring compliance of non-residential assets would have continued to be facilitated through reporting requirements on conditions attached to approvals, while investigations would have remained largely desktop and paper-based by searching existing government and public databases, resulting in limited assurance of compliance. The Government would have continued to have limited ability to respond proportionately to issues of non-compliance, with no ability to use infringement notices for minor offences.

Option 2 – a balanced approach

Under this chosen option, the Government would have the resources, powers and penalties to effectively monitor, investigate and prosecute breaches of foreign investment laws.

The Government would have standard monitoring and investigative powers (in line with those of other business regulators) by enlivening the relevant provisions in the *Regulatory Powers (Standard Provisions) Act 2014*. This would enable authorised officers to access premises with consent or by warrant, gather documents, information or equipment, and interview people for relevant information. Investors would also be required to notify the Government where certain events occur in relation to actions taken (e.g. where an asset is sold), consistent with the requirements of the proposed new foreign ownership register. This measure would improve the regulator's capability to monitor investor compliance and/or investigate potential non-compliance.

The power to issue directions would give the Government flexibility on how best to address actual or likely non-compliance. The directions power would be triggered where the Government has a reason to suspect that an investor has, is, or will, engage in conduct that breaches a condition of their approval or breaches a foreign investment law. The requirement to have a 'reason to suspect' is an objective test based on the facts and circumstances of each case and is consistent with the standard applied in other regulatory spheres such as in the *Australian Securities and Investment Commission Act 2001* and the *National Consumer Credit Protection Act 2009*.

Directions could be used to respond to a range of circumstances including to:

- ensure compliance with the FATA or the associated regulations
- take action or refrain from a particular action required to prevent further or ongoing harm to the national interest; and/or
- take action or refrain from a particular action to remedy any breaches of the terms of an exemption certificate or no objection certificate.

As such, directions would vary depending on the circumstances, but may include removal of persons from corporate boards, providing audited financial statements to verify funding sources, or ceasing certain activities. The directions might have required the conduct to be completed within a set timeframe or until a specified condition is met.

An investor would be required to comply with a direction. Failure to comply with a direction would expose the person to enforcement mechanisms.

Civil and criminal penalties under the FATA would also be increased to ensure they act as an effective deterrent. These amounts would be maximums to enable Treasury and the ATO to make submissions to the court to impose penalties appropriate to the circumstances of the contravention and relevant action.

In general, civil penalties would be the greater of the 5,000 units or 75 per cent of the value of the investment to a maximum monetary value of 250,000 penalty units. Criminal penalties would increase to 15,000 penalty units for individuals and 150,000 penalty units for corporations. A key exception is a failure to notify, where the civil and criminal penalty would be capped at 250 penalty units.

Option 3 – significant increase in the protection of Australia’s assets

This option would have involved a more stringent penalty regime, with fewer (and less scalable) enforcement mechanisms available. Matters could only be enforced with court proceedings, which could have been resource and cost intensive approach for both Treasury and investors.

4.4 Streamlining less sensitive investments

As noted above, some stakeholders had stated that the foreign investment framework can be complex and burdensome in some situations. This is particularly relevant for privately controlled and managed institutional investors that are regularly screened under the foreign government investor screening rules due to large investments by foreign government investors in their funds.

Option 1 – status quo

Under this option, investment funds in which a foreign government investor holds at least a 20 per cent interest, or where multiple foreign government investors hold at least a 40 per cent interest, would have continued to be classified as a foreign government investor themselves.

Option 2 – a balanced approach

Under this chosen option, the Government would no longer treat certain entities (that is, some investment funds) as foreign government investors under the broader national interest test where their foreign government investors are passive – meaning they would have no influence or control over the investment or operational decisions of the entity or any of its underlying assets. This measure would be given effect in two ways:

- Entities which have more than 40 per cent foreign government ownership in aggregate (without influence or control) but less than 20 per cent from any single foreign government would no longer be deemed foreign government investors.
- Entities which have a single foreign government investor with at least 20 per cent ownership (without influence or control) would still be deemed foreign government investors, however they would be able to apply for a broad exemption certificate on a case-by-case basis that could exempt non-sensitive acquisitions below the private investor thresholds.
 - These exemption certificates may be granted for a specified time period (such as five or ten years, or up to the life of the entity), and may include conditions, such as conditions regarding the passivity and control of foreign governments over the investment fund and target entities.

- If granted, the investor would effectively be in the same position as if the foreign government investor met the amended definition of aggregate substantial interest, in addition to being exempted from the notification requirements relating to an acquisition of a substantial interest on its own.

These entities would still be considered as ‘foreign persons’ for the purpose of foreign investment screening and would be subject to the usual screening thresholds for private foreign investors.

In the case where a limited partnership investment fund may seek an exemption certificate, the entity would need to demonstrate the absence of foreign government investor influence or control. As part of the exemption certificate application, the fund would be required to show that their foreign government investors:

- do not have management rights in the investment
- typically do not know which and when particular investments will be made (but may know the broad nature of the investment strategy)
- do not have influence or control, directly or indirectly, and could not be perceived to have any influence or control, over the investment entity or strategy (including decisions to increase holdings or divest holdings in a sector or industry) of the investment fund.

The fund may also need to commit to the passivity of foreign government control through the use of conditions on the exemption certificate.

Option 3 – significant decrease in the protection of Australia’s assets

This option would have involved removing the zero-dollar screening threshold that applies to all foreign government investor investments under the FATA. Investments made by foreign government investors into Australia would have been subject to the same monetary screening thresholds as private investors.

4.5 Register of foreign ownership of Australian assets

As noted above, the Government did not collect data on the levels of foreign ownerships in Australian assets. This limited the Government’s ability to assess cases, monitor compliance with conditions imposed on investments, and draw on a robust data set to inform policy development.

Option 1 – status quo

Under this option, the Government would have continued to collect only that foreign investment data that was captured on the small number of existing sector-specific registers. These five existing registers only collected information about realised foreign investments made into certain sectors of the economy – being residential land, agricultural land, water interests, media businesses⁵ and critical infrastructure.⁶

5 The Register of Foreign Owners of Media Assets is maintained by the Australian Communications and Media Authority. For further details, see: <https://www.acma.gov.au/register-foreign-owners-media-assets> Accessed 13 August 2025.

6 The Register of Critical Infrastructure Assets was maintained at the time by the Cyber and Infrastructure Security Centre (now the Critical Infrastructure Security Centre) in the Department of Home Affairs.

Option 2 – a balanced approach

Under this chosen option, a new Register of Foreign Ownership of Australian Assets (Register) would be established to provide greater visibility of foreign ownership in Australia. Investors would be required to record on this register all acquisitions they make of Australian land, and all significant actions they take following the receipt of a no objection notification or exemption certificate. Investors would be required to record their level of interest in the asset (e.g. their percentage of ownership), the means by which they acquired the asset (e.g. freehold or leasehold interests in land), and their (or their agent's) contact details and nationality or source country. Investors would be required to register their investments and provide this information within 30 days following the action.

The new Register aimed to amalgamate the existing agricultural land, residential land and water entitlements registers, to provide a streamlined user experience. This proposal would not amalgamate or affect the existing critical infrastructure or media businesses registers, as the characteristics of those registers did not easily align with the design of the new register. For example, while the data on the media register is publicly available, this new register would not be searchable by the public due to commercial sensitivities and privacy considerations. However, to provide a degree of public transparency on foreign investment in Australia, an annual report of aggregate de-identified data from the Register would be made available each year.

Stakeholder feedback during the consultation processes led to the refinement of certain elements of this proposal (for both *Options 2 and 3*). Most notably, following feedback that the draft definition of 'registrable land' was too broad, that definition was narrowed to be more consistent with the existing definitions already contained in the FATA.

Option 3 – significant increase in the protection of Australia's assets

This option would have involved establishing a new Register of Foreign Ownership to provide the Government with greater visibility of foreign ownerships being made in Australia, similar to Option 2. However, investors would have been required to record on this register a broader range of actions than under Option 2, including: all acquisitions of Australian land; all non-land acquisitions that would be significant actions, irrespective of their monetary value (i.e. assuming a zero dollar threshold applies); and all instances where an investor may hold a no objection notification or exemption certificate but not yet taken any action. Investors would have been required to record their level of interest in the asset (e.g. their percentage of ownership), the means by which they acquired the asset (e.g. freehold or leasehold interests in land), and their (or their agent's) contact details and nationality.

4.6 A fairer and simpler framework for foreign investment fees

It is the Government's policy that the cost of administering the foreign investment review framework be borne by foreign investors, not Australian taxpayers. However, some stakeholders still expressed concern that the structure of the fee framework is overly complex and costly to navigate.

Updates to the fee framework were required to address these concerns as well as reflect the expanded functions of the Government under the foreign investment framework—particularly the introduction of a new national security test and enhanced compliance powers—to ensure the fees framework continues to cover the cost of administering the system.

Option 1 – status quo

Under this option, the fee framework would have remained relatively complex. This would have continued to impose a degree of uncertainty on investors which involves an expenditure of their time and resources to navigate.

Option 2 – a balanced approach

Under this chosen option, the fee schedule would be updated to reflect the enlarged roles and responsibilities of foreign investment activities across government, including aspects related to national security and compliance measures. It would also take into account the growing complexity of cases, as well as the administrative cost of the review process over recent years. The updated fee schedule would focus on delivering a structure that is fairer and simpler. In particular, it would reduce the complexity of the framework to minimise the compliance and administrative costs for investors in establishing and paying the correct fee.

It would also remove the size of the gaps between thresholds for consideration value which, prior to the reforms, may have had a distortionary impact on investment decisions. For example, fees for non-residential land prior to the reforms had three thresholds, which means fees rose by around 1,200 per cent between the first and second tier, and by more than 300 per cent between the second and third tier. A smoother, more graduated scale of fees would ensure investors are not incentivised at the margin to restructure transactions around fee tiers, and more generally would lead to more equal treatment of investors across consideration values.

On this basis, individual fees would continue to vary according to the type and value of the investment, with residential land applications continuing to pay the highest fees as a proportion of consideration, followed by agricultural land. Commercial land and business acquisitions would pay the least as a proportion of consideration. Depending on the consideration value, fees for residential land, agricultural land and commercial land and business acquisitions would generally range from \$6,600 to \$500,000.

There would be concessional fees available for exemption certificates and for actions which are reviewable, but not mandatorily notifiable, under the new national security test. Lower fees for called-in applications and voluntary notifications would help mitigate some of the additional regulatory impost and also encourage voluntary notifications where there may be doubt as to whether an application may present national security concerns.

While fees would increase, they would still represent a relatively small proportion of overall consideration for all application types. In addition, previous consultations indicated that investors were found to be more concerned about timeliness of foreign investment decision-making than the level of fees.

It was anticipated that investors acquiring businesses between \$10 million and \$150 million would benefit from this new model, as would investors acquiring agricultural land between \$2 million and \$6 million. The maximum fee for a commercial transaction over \$150 million would not be higher than 0.03 per cent of the consideration, or 0.66 per cent for agricultural land (above \$6 million). Some fees for small acquisitions were anticipated to be higher under the new framework; however, the arrangements enabling fee relief prior to the reforms on a case-by-case basis could be applied to ensure fees paid are appropriate for the nature of the transaction.

Recognising the importance of non-sensitive foreign direct investment to the Australian economy, investors would continue to be able to apply for exemption certificates for up-front approval of a program of acquisitions. Rather than the flat fee prior to the reforms, the fee structure for exemption

certificates would generally depend on the type of target investments (e.g. businesses, agricultural land or commercial land), and the proposed value of the investments. The fees for these exemption certificates would be 75 per cent of the applicable fee for a single transaction of the same value.

Option 3 – significant increase in the protection of Australia’s assets

This option would have involved an unchanged and relatively complex fee framework. However, under this option, the size of each of the individual fees would have been increased to ensure that they cover the additional expected costs of the new post-reform system.

4.7 Modernising Australia’s foreign investment ICT platform for better case management, compliance enforcement and data use

As noted above, the Government’s ability to identify and assess national interest and national security risks in foreign investment hinges on a fit-for-purpose case and compliance management system, and the quality, accuracy and currency of data. Treasury’s IT system prior the reforms had not kept pace with evolving operational demands and was not a functional case management system, nor did it effectively support compliance activity. The accessibility and useability of data could at times be limited.

Option 1 – status quo

Under this option, Treasury would have continued to use its current IT case management system (known as FIMS3) to administer the foreign investment framework. This system, however, was considered no longer fit for purpose at the time, or for expected future purposes.

Option 2 – a balanced approach

Under this chosen option, a new case management system would be implemented to enable end-to-end case management, including compliance monitoring, and some process automation. It would enable all of Treasury’s work to administer the FATA (including proposal assessments and compliance monitoring) to be completed in the one system.

The system would include a single public front door to channel investors to either the ATO online services portal (for residential and non-sensitive commercial applications) or the Treasury service delivery point (for all other applications), leveraging MyGovID for authentication. This would make it easier for investors to interact with government services.

This option would also include advanced analytics including machine learning, natural language processing, and entity relationship mapping. These technologies would assist case management and compliance officers by identifying potential areas of risk through the accumulation and searching of multifaceted market data sources.

It was intended that the new system would also be linked to the new Register of Foreign Ownership of Australian Assets to provide case officers with more timely and accurate information on what investors already own in Australia when assessing a case.

This proposed IT system would deliver improved government services through an improved investor portal with enhanced validation to minimise the likelihood that investors would be required to provide

additional information after the initial submission. In particular, this option would have the greatest impact on improving Treasury's ability to perform its regulatory role and aimed to increase productivity in administering the foreign investment framework with reduced processing times and costs for government and investors.

The ATO online services portal would provide investors with a secure, self-service system allowing management of foreign investment obligations including residential real estate applications, asset registration, vacancy fee returns and change of details.

Option 3 – significant increase in the protection of Australia's assets

This option would have involved a new case management system, implemented consistent with Option 2. However, at the time the RIS was drafted, it would have not incorporated the further advanced data analytics across large public and non-public data sets of Option 2. This option would not have assisted Treasury case management and compliance officers in identifying potential areas of risk in the same manner as in Option 2.

5. What were the impacts of the policy?

Following an initial evaluation of the 2021 Reforms conducted in 2021 (the 2021 Evaluation, discussed further in Section 9), the Government has made several further changes to the Framework in 2022, 2023 and 2024, including, but not limited to:

- further regulatory amendments in 2022 to support the improved administration of Australia's foreign investment framework by clarifying certain aspects within the *Foreign Acquisitions and Takeovers Regulation 2015*⁷
- doubling of foreign investment fees in July 2022 and penalties in January 2023⁸
- implementation of an exemption for interfunding transactions from mandatory notification under the FATA in 2024
- reforms to policy and practice announced in May 2024 to apply stronger scrutiny for high-risk proposals, streamline assessments for less sensitive investment proposals, and improve transparency.

These changes built on and supported the objectives of the 2021 reforms. The frequency of policy changes to the Framework since the 2021 reforms were introduced complicates the ability to isolate the impact of any one specific change, including the 2021 reforms, on investment flows and stakeholders. It does, however, demonstrate continued efforts to adjust the Framework to balance the benefits of foreign investment whilst ensuring that it is not contrary to the national interest.

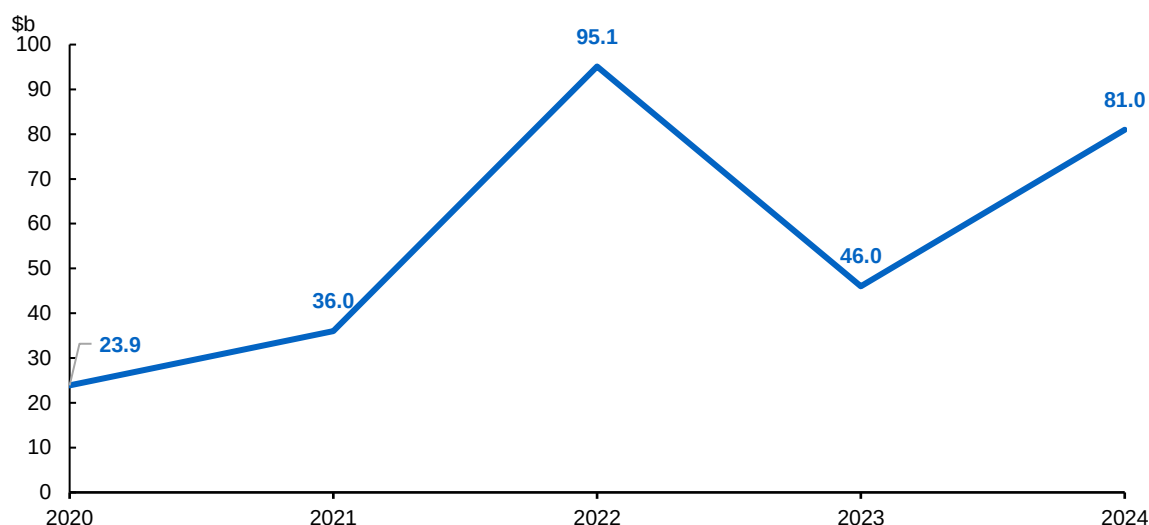
Chart 6.1 shows Australia's foreign direct investment (FDI) inflows from 2020 to 2024.⁹ The fluctuation in FDI inflows reinforces previous commentary in the 2021 Evaluation that FDI inflows can be volatile. FDI inflows can vary considerably from quarter to quarter and year to year depending on the timing of a small number of large transactions. FDI inflows is a net figure, meaning it captures – but does not disaggregate – FDI coming into Australia and divestments of existing FDI. As such, it is not possible to identify whether a change in inflows is driven by a reduction in the former or an increase in the latter. While foreign investment screening may affect some incoming FDI, it is unlikely to have any effect on FDI divestments.

7 [Foreign Acquisitions and Takeovers Amendment Regulations 2022](#), 31 March 2022, 'Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2022 Explanatory Statement', Australian Government, accessed 12 August 2025.

8 [Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2022 Explanatory Statement](#); [Foreign Acquisitions and Takeovers Fees Imposition Amendment \(Fee Doubling\) Regulations 2022](#); 2 Commencement; [Treasury Laws Amendment \(2022 Measures No. 3\) Act 2022](#), 2 Commencement.

9 Australian Bureau of Statistics (ABS), 'International Investment Position, Australia: Supplementary Statistics – Foreign investment in Australia, Direct investment transactions, by country/country group', 2021, accessed 15 May 2025; ABS, 'International Investment Position, Australia: Supplementary Statistics', 2024, accessed 15 May 2025.

Chart 6.1: Foreign investment in Australia, Direct investment transactions



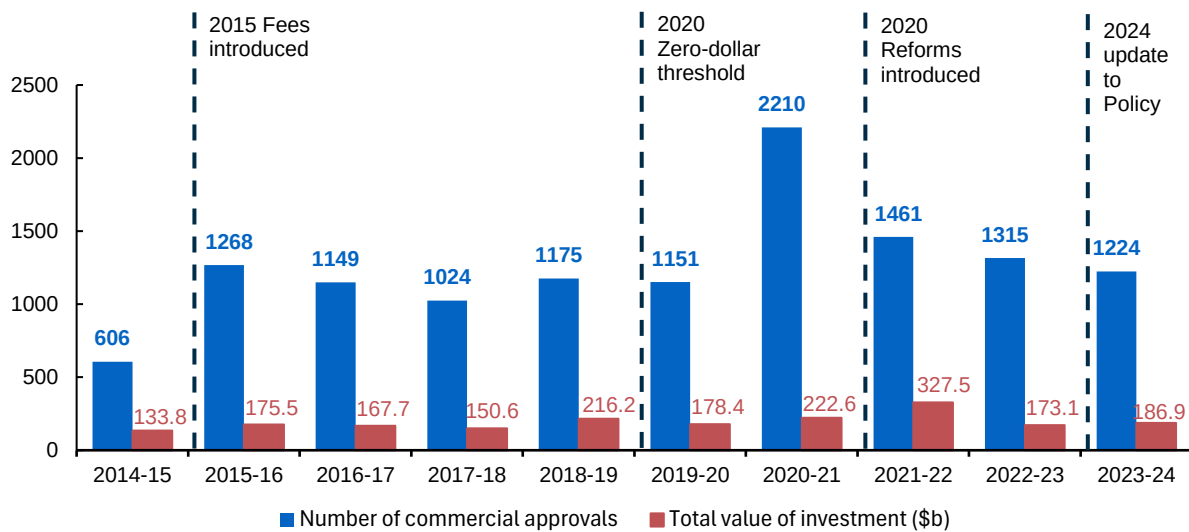
Source: ABS

Treasury's foreign investment proposals data provides insights into potential foreign investment flows into Australia. The proposals data measures intended investment rather than actual investment and is a useful indicator of FDI into Australia when combined with ABS data. It does not capture FDI divestments. As such, it does not face the problems discussed above in relation to net inflows data. However, it is also difficult to directly attribute changes in the data to the 2021 reforms, as investment proposal can be volatile over time due to the high relative value of some investment proposals relative to others and due to seasonal factors. Despite these limitations, proposals data remains a useful indicator to observe changes and trends in investment interest and behaviour over time.

Treasury data for the number of approved proposed commercial foreign investment applications show a decline in total application approvals since a high of 2020–21 (see Chart 6.2).¹⁰ Application numbers for 2020 also reflect the zero-dollar threshold in place during the COVID period where the Government sought to screen all proposed investment regardless of value or country of investor. Data in the four years from 2021–22 onwards, however, shows annual approved commercial application numbers are higher on average than the four years from 2016–2019 prior to the 2020 reforms. The average annual value of proposals in the four years since 2020–21 has been \$234.7 billion, compared to \$178.2 billion in the four years prior to the 2020 reforms. While noting the limitations of this data described above, this suggests that investor sentiment has remained robust following the commencement and implementation of the reforms.

¹⁰ The ATO processes proposed investment in residential land.

Chart 6.2: Proposed commercial approvals 2014–2024



Source: Treasury

5.1 Protecting Australia's national security

The national security reforms were introduced to ensure the framework kept pace with evolving geopolitical risks, emerging technologies and growing foreign investment into sensitive sectors such as electricity, transport and defence providers, which was seen to be posing an increasing risk to Australians and the resilience of the Australian economy.

At the time of the 2021 reforms, it was estimated that an additional 161 applications would be made by investors each year.¹¹ On average, 85 approved applications have been lodged annually that the Government would not otherwise have had scrutiny over without the reforms (see Table 6.1). Of those, an annual average of 25 applications has been voluntarily notified. This demonstrates investors have actively sought to voluntarily notify some acquisitions that would have not otherwise been screened under the framework (see Table 6.2).

Table 6.1: Annual number of approved national security investment proposals

2024–25 YTD*	2023–24	2022–23	2021–22	2020–2021
58	78	115	93	30

* Quarter 1 and 2 of 2024–25

Note: Variations from previously published statistics are due to the reconciliation process.

11 The Treasury, 'Regulation Impact Statement – Foreign Investment Reform Package 2020'.

Table 6.2: Number of approved national security investment proposals

		2024–25 YTD*	2023–24	2022–23	2021–22	2020–21
Mandatory	Approved with conditions	5	11	15	15	1
	Approved without conditions	39	42	69	44	14
	Total	44	53	84	59	15
Voluntary	Approved with conditions	1	1	4	19	3
	Approved without conditions	13	24	27	15	12
	Total	14	25	31	34	15
Both	Approved with conditions				5	0
	Approved without conditions				8	2
	Total				13	2

* Quarter 1 and 2 of 2024–25

Note: Proposals involving multiple actions that include both mandatory and voluntary notifications are counted against each national security category for the 2022–23 data onwards. For 2021–22 data and earlier, proposals were categorised as either mandatory, voluntary or both where there are multiple actions within one proposal that include mandatory and voluntary notifications. Variations from previously reported statistics are due to this change.

At the introduction of the reforms, many stakeholders had indicated uncertainty about which investments should be mandatorily notified under the new national security measures,¹² the use of the call-in power and how investors could be certain about proximity to national security land when this may not or could not be known by an investor when making reasonable enquiries.¹³ Treasury has since updated Guidance Note 8: *National Security* to clarify these uncertainties.

Despite more regular quarterly reporting by Treasury on foreign investment applications, there remains a desire from investors for more detailed information on some aspects of this reporting, including whether withdrawn applications may have been as a result of possibly being rejected.¹⁴

The Treasurer issued 6 call-in notices in 2023–24.¹⁵ There were no call-in notices prior to this since its introduction. The call-in power was designed to enable the Treasurer to ‘call-in’ for review reviewable national security actions which are not otherwise notified, if the Treasurer considers that the action may pose national security concerns. Once called in, an investment is reviewed to determine if it raises national security concerns. For investments called in, the Treasurer may issue a no objection notification, including with conditions, or prohibit the action, or require the divestment of foreign interests in a business, entity or land. The use of this power by the Treasurer signals the Government’s intent to take action to protect the national interest and national security.

It has been publicly reported, and by way of a legislative instrument under the FATA, that the Treasurer has ordered 5 investors to divest their shareholding in an Australian entity (a disposal order), following use of the call-in power. The Government has also, for the first time, taken court action for civil penalty proceedings against one of the investors ordered to divest their shareholding.

12 See for example, The Treasury, [submissions from Baker Mckenzie, Herbert Smith Freehills, H-bar: Quantum Consultants, MinterEllison, National Farmers’ Federation, Q-CTRL, the Australian Investment Council, the Clean Energy Council, the Investment Company Institute, the Law Council of Australia, the Minerals Council of Australia and the Water Services Association of Australia](#), accessed 15 July 2025.

13 See for example, The Treasury, [submissions from Association of Mining and Exploration Companies and Australia China Business Council](#), accessed 15 July 2025.

14 Allens, ‘Recent developments in foreign investment (FIRB) regulation’, 19 March 2025, accessed 4 July 2025.

15 The Treasury, ‘[The Treasury Annual Report 2023–24](#)’, page 228, 18 October 2024, accessed 4 July 2025.

This example of the call-in power and the subsequent disposal order demonstrates that the impact of the use of the new powers has been limited and targeted as intended in relation to the number of overall foreign investment applications.

5.2 Improving the integrity of foreign investment framework

In the 2021 evaluation, Treasury received several submissions from stakeholders regarding a range of issues on the framework and its administration. As discussed below in Section 7, Treasury has continued to receive feedback from a range of sources and through a range of channels on the operation of the framework.

Stakeholder feedback indicates that whilst appreciating ongoing engagement and transparency in discussions on the framework with Treasury, stakeholders would prefer more consistency in how enquiries are dealt with. Updates to the published guidance notes and website, discussed in Section 7 below, aimed to address these issues.

Part of improving the integrity of the framework included greater sharing of protected information provided by investors under the FATA both domestically and internationally, subject to appropriate safeguards, designed to support compliance activities and increase the efficiency of administering the framework.

5.3 Stronger compliance and enforcement powers

Treasury and the ATO established new processes and procedures to support the enhanced compliance and enforcement powers provided for in the reforms. In the 2021 evaluation, stakeholders commented that in most cases, investors do their best to comply with the Framework – with most cases of non-compliance being inadvertent – and that the obligations in the public guidance material were clear and sufficient.

The reforms aimed to ensure that the Treasurer and Commissioner of Taxation have enforcement, monitoring and investigative powers in line with those of other regulators, including access to premises with consent or as permitted by warrant to gather information. This aimed to improve the regulators' capabilities to monitor investor compliance and investigate potential non-compliance. Under the *Regulatory Powers (Standard Provisions) Act 2014*, Treasury now has monitoring powers to enter premises to verify investor compliance, investigation powers to enter premises to gather information about potential breaches, and the power to issue infringement notices for a range of civil penalty provisions – not just for breaches in the residential real estate sector, as was the case prior to the reforms. The reforms also introduced a new tier 3 infringement notice, increasing the infringement penalty units by 5 multiples, reflecting a more proportionate penalty for acquiring interests in high value transactions.

The 2021 evaluation found that regular performance reporting would improve the transparency of foreign investment regulation in Australia. Since the reforms, Treasury has continued to publish annual data and additionally publishes quarterly data (since quarter 1, 2022, first published on 9 December 2022) on compliance with the framework.

The annual number of condition mandated reports has steadily increased from 1,676 in 2020–21 to 2,785 in 2023–24 (see Table 6.3). Treasury's two audit programs – the Regulator Audit Program (Treasury-led in-house audits) and the Independent Audit Program (condition-mandated audits conducted by independent assurance practitioners) – serve important compliance assurance roles. The number of completed Regulator Audits has remained steady with 5–7 completed annually (see Table 6.4). The Regulator Audit program continued to develop during 2024–25 to conduct complex

and in-depth audits, including through the use of monitoring powers. The audits were selected based on priority compliance risk areas to verify compliance with conditions imposed on approved foreign investments. Where an investor was found to be non-compliant or partially compliant, the investor worked with Treasury and remediated any identified non-compliance as a priority. The Independent Audit Program continues to enhance Treasury's oversight and assurance of investor compliance with conditions imposed on a significant number of investments in sensitive, high-risk and complex areas. Where non-compliance was identified, investors worked with Treasury to promptly address issues. Ongoing engagement with foreign investors has helped improve compliance and remediate issues.

Table 6.3: Number of condition mandated reports

	2024–25 YTD*	2023–24	2022–23	2021–22	2020–21
Condition mandated reports received	1,301	2,785	2,577	2,005	1,676
Condition mandated reports assessed **	1,323	3,188	3,027	2,524	Not available

* Quarter 1 and 2 of 2024–25

** Condition mandated reports assessed may include reports carried over from the previous financial years.

Note: Any changes in historical figures are due to quality assurance activities.

Table 6.4: Number of regulator audits completed

	2024–25 YTD*	2023–24	2022–23	2021–22	2020–21
Regulator audits	4	7	6	6	7

* Quarter 1 and 2 of 2024–25

The number of annual independent audits completed has increased since the introduction of the reforms (see Table 6.5). Independent audit reports are prepared by independent assurance practitioners on the investors' compliance with conditions imposed on their investments (see Table 6.6). The independent assurance practitioners are engaged by the investors and approved by the Treasury.

Table 6.5: Number of independent audits completed

	2024–25 YTD*	2023–24	2022–23	2021–22	2020–21
Proposals approved	58	76	76	56	22
Reports completed	43	67	78	46	19

* Quarter 1 and 2 of 2024–25.

Table 6.6: Number of matters sourced via non-compliance referrals and assessments by information source

	2024–25 YTD*	2023–24	2022–23	2021–22	2020–21
Self-reported potential non-compliance with conditions (voluntary disclosures outside mandatory reporting)	2	11	25	44	75
Failure to notify related referrals/reports from the public**	32	33	43	45	
Failure to notify related referrals/reports identified from other source***	21	57	46	29	16
Total	55	101	115	118	91

* Quarter 1 and 2 of 2024–25.

** 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 number of infringement notices issued by Treasury was zero in the first two years of the reforms. One was issued in 2022–23 and 19 issued (in response to multiple alleged contraventions of the FATA by two separate foreign investors) in 2023–24 (see Table 6.7).

Table 6.7: Number of infringement notices issued by Treasury

	2024–25 YTD*	2023–24	2022–23	2021–22	2020–21
Infringement notices issued	1	19	1	0	0

* Quarter 1 and 2 of 2024–25.

In addition to the compliance activities discussed above, during 2024–25, Treasury exercised monitoring powers to conduct several on-site compliance inspections. To support this, Treasury strengthened its workforce’s technical expertise through training aimed at developing compliance officers ahead of conducting off-site inspections, including training in the exercise of powers, situational awareness and formal interview training. This training has enabled staff to build confidence, and the skills required to ensure off-site inspections are conducted appropriately, effectively and safely.

As discussed above in Section 6.1, the Treasurer has, for the first time in 2025, commenced court action against an investor for alleged non-compliance with a disposal order. This action being the only civil penalties litigation commenced since the reforms were introduced indicates the Government aims to use the powers in selected instances where proportionate to the circumstances, including the seriousness of the alleged non-compliance.

5.4 Streamlining less sensitive investments

Concerns about the scope and complexity of the framework predate the 2021 reforms. The relatively wide reach of Australia’s foreign investment framework is a consequence of the framework’s focus on both the national interest and national security (as compared to some international regimes, which are more targeted to national security), as well as decisions taken over decades to ensure the framework remains responsive to changes in the strategic context, business environment and community expectations around foreign investment.

In the 2021 evaluation, stakeholders generally welcomed the streamlining measures targeted at investment funds with passive foreign government investors.¹⁶ However, stakeholders continued to provide feedback to Treasury about the complexity of the framework and the importance of streamlined processes being available for less sensitive investors and transactions to reduce undue burden and encourage foreign investment.¹⁷ Between 2021 and 2025, a total of 31 passive foreign government investor exemption certificates were lodged, with 23 of those approved with conditions, 2 approved without conditions, 2 withdrawn and 4 under assessment. The data suggests this is a small number compared to an annual average of 1550 applications for foreign investment each year. Stakeholder feedback also suggested whilst the introduction of passive ECs was welcome, the uncertainty around getting an EC remained.

5.5 Register of Foreign Owned Australian Assets (the Register)

The Register of Foreign Ownership of Australian Assets (the Register) commenced on 1 July 2023 and is administered by the Australian Taxation Office (ATO). It amalgamated the existing registers for agricultural land, residential land and water entitlements and expanded registration requirements to include commercial land, business interests and mining or production tenements and exploration tenements. The introduction of the register also created additional obligations for investors to notify certain actions such as disposal of an interest in an asset, changes to foreign person status and changes in the nature of an asset. The information on the Register is not public and can only be used, recorded or disclosed consistently with the protected information provisions of the FATA and other relevant legal requirements. To provide a degree of public transparency on foreign investment in Australia, the Commissioner of Taxation (as Registrar of the Register) is required to present an annual report of aggregate de-identified data to Government each year.

The first annual report from the Register, covering registered interests held on 30 June 2024, is under development. Stakeholders have expressed some concern that the reporting requirements of the Register have added to complexity of the foreign investment framework.¹⁸ Stakeholders have also expressed concerns of duplicative reporting obligations for some investors that can be onerous, particularly for small economic interests and minor changes in economic stakes.

The ATO has applied a sound, risk managed approach to maintaining the integrity of the Register. Ensuring the accuracy of investor notification through these vetting processes is manual and reviewing submissions and validating against third party data is resource intensive. The ATO has established vetting and quality assurance processes related to residential land, agricultural land and water entitlements. For the three new asset classes (business interests, commercial land and mining or production tenements and exploration tenements), these processes are maturing.

The RIS forecasted asset notifications that could be expected on the Register, but in practice, notifications have exceeded these forecasts. Previously, investors notified Treasury of non-residential assets and were only required to notify of the transaction. With the introduction of the Register and supporting legislation, investors are required to notify of significant and notifiable actions. Some transactions have considerable numbers of actions that must separately be notified, including for each

16 See for example, The Treasury, [submissions from The Technology Council of Australia and Herbert Smith Freehills](#), accessed 15 May 2025.

17 Allens, [‘Common FIRB issues for private equity firms’](#), 28 February 2024, accessed 15 May 2025.

18 King & Wood Mallesons, [‘Register of Foreign Ownership of Australian Assets’](#), 23 March 2023, accessed 17 July 2025.

entity in a structure that has been traced to have taken an action. Maintenance provisions under the Register now also require that, once an action is recorded, any changes to ownership information must be accurately maintained. This includes changes in relation to the disposal of assets, the owners' foreign status (e.g. if they are no longer a foreign person), changes to the nature of interest and percentages owned. Additionally, individuals and entities with existing assets who become foreign persons are required to notify of their holdings.

To support the Register, a new authenticated platform, ATO's Online services for foreign investors (the ATO Online Service) was developed for foreign investors and their representatives to interact with the ATO in meeting their foreign investment obligations. As part of the Australian Government's Digital ID System, the ATO Online Service uses digital identification to increase security over those who have access to the system and ensure integrity and security of Register data. Whilst there are additional steps in setting up access to the ATO Online Service for the first time, these steps to verify identity and authorise representatives are essential and help protect investors against fraud and identify related theft, for Registration and subsequent tax interactions. Guidance for foreign investors on how to access the ATO Online Service and authorise representatives was published on ato.gov.au.

Originally, the RIS proposed a single public front door to channel investors to either the ATO Online service or the Treasury portal, however this did not progress.

To further support compliance activities and ensure foreign acquisitions remain within the national interest, the ATO shares data from the Register with other Government agencies under formal memorandum of understandings (MOUs). These MOUs require shared data to be transferred and stored securely and used only for activities agreed by the two agencies.

5.6 A fairer and simpler framework for foreign investment fees

Since December 2015, the Government has charged fees for foreign investment applications to ensure the costs of administering the framework are borne by foreign investors, and not Australian taxpayers.¹⁹ The 2021 reforms introduced a more graduated fee structure that ensures fees are more closely aligned with the overall value of a transaction. The new fee structure maintained the Government's intent of ensuring the cost of administering the foreign investment framework continued to be borne by foreign investors.

Understanding the impact of changes in the fee structure or other reforms since 2021 on foreign investment interest is not straightforward, as the number and size of foreign investment applications can be driven by a wide range of external factors. The frequency of policy adjustments, including to fees, complicate the ability to isolate the impact of any one specific change.

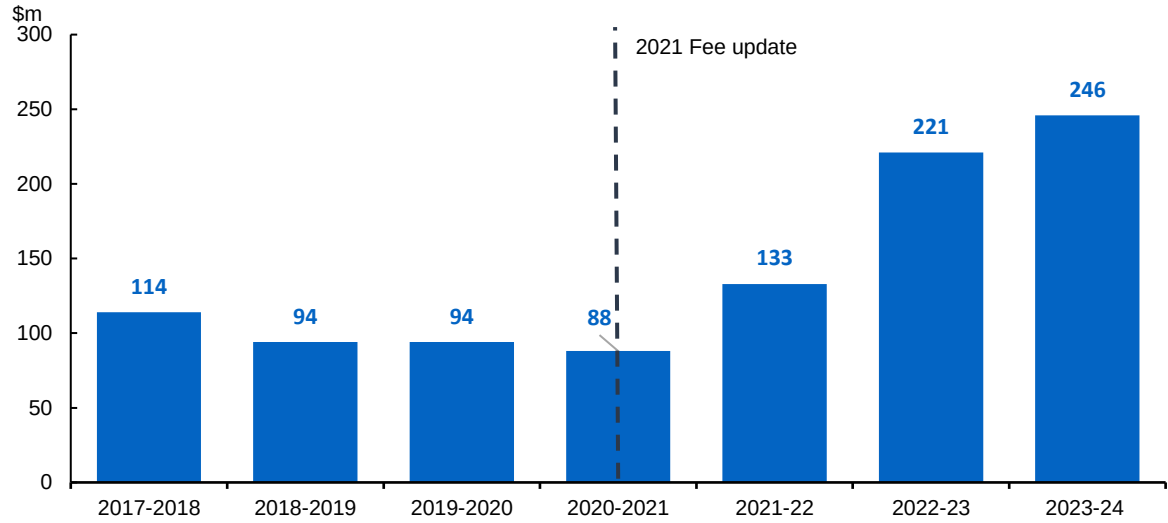
Many stakeholders have continued to provide feedback on the fees and considered that revenue collected was not proportionate to the cost incurred by agencies in administering the framework. The complexity in navigating and calculating foreign investment fees also adds burdens for investors. Stakeholders also consider that foreign investment fees may hamper foreign investment in priority sectors, such as certain types of housing development.²⁰

19 The imposition of fees is achieved through general taxation and not by way of cost recovery or fees for service.

20 Allens, '[FIRB fee changes aimed at increasing affordable housing supply](#)', 11 December 2023, accessed 15 July 2025.

Since the 2021 reforms, the fees that have been collected has increased from \$88 million in 2020–21 and \$133 million in 2021–22 (see Chart 6.3). This increase may have partly been due to the 2021 revised fee framework, which more closely linked each fee type to the transaction size. This change in the fee framework coincided with an increase in the value of notified investments. This upward trend in fee revenue has continued, which may also be partly attributable to further subsequent fee increases on 29 July 2022 with the doubling of fees for all foreign investment applications and the subsequent tripling of application fees for purchases of established dwellings and the doubling of the vacancy fee on 9 April 2024. While the increase in fees collected may suggest an increase in investment activity, it is unclear whether it reflects the effectiveness of the fee structure or simply the effect of higher fee rates. It is difficult to isolate the impact of the 2021 reforms and conclusively attribute this trend of increased fees collected with these subsequent changes.

Chart 6.3: Foreign investment fees collected (\$m)²¹



Source: ATO

5.7 Modernising Australia’s foreign investment ICT platform for better case management, compliance enforcement and data use

The Treasury Foreign Investment Portal (the Portal) and the ATO’s Online services for foreign investors were developed between 2021 and 2025, together with the Register discussed in Section 6.5 above. These online platforms aim to enable investors, agents and government consultation partners to engage with Treasury and the ATO more efficiently.

The ATO’s Online services for foreign investors was launched on 1 July 2023 to coincide with the commencement of the Register. It provides all foreign investors the ability to register their interest in Australian assets and maintain their details as well as providing a single platform for residential investors to apply, register assets and manage their ongoing foreign investment obligations.

The Compliance functionality of Treasury’s Portal was launched on 24 February 2025 and full functionality of the Portal was launched on 28 May 2025. This replaced the previous FIRB Application

21 See ‘Revenue collection’ section of [‘Australian Taxation Office Annual Report for 2019–20, 2022–23 and 2023–24’](#), accessed 15 July 2025.

Portal. Users can now use the portal to create an account, submit a compliance report, communicate with Treasury in-system, make submissions (including future condition responses), pay fees, and apply for waivers.

The new platforms provide an uplift in Treasury's and the ATO's digital service delivery capability that consolidates its legacy data holdings and replaces them with a platform that includes:

- an end-to-end Case Management System for foreign investment submissions
- a Foreign Investment Portal for investors and their representatives
- a portal for government Consult Partners to provide advice on case assessments
- a new Register of Foreign Ownership of Australian Assets (RFOAA), delivered by the ATO
- Online services for foreign investors, delivered by the ATO
- a portal for Foreign Investment submission data and compliance reporting
- a Treasury Payment Gateway.

It is too early to tell if the full functionality of the Portal has enabled cases to be handled more quickly and efficiently. The anticipated benefits discussed above in Section 5.7 cannot yet be fully analysed, including assessing any benefit of the Register data for Treasury and ATO staff use when assessing foreign investment proposals and compliance.

Certain functions of the Portal were proposed in the RIS (discussed in section 5.7) but did not progress. These include:

- advanced analytics features, noting that the Portal still provides some analytical capabilities;
- linking of the Portal to the ROFAA (see section 6.5); and
- the compliance monitoring component to the end-to-end case management system.

Treasury will continue to refine and enhance the system based on user feedback and stakeholder experience.

6. Which stakeholders have been consulted?

Treasury and the ATO have monitored and evaluated the operation and performance of the reforms on an ongoing basis throughout 2021 to 2025 through the various stakeholder feedback channels. Stakeholder feedback collected from these channels informed the analysis of the reforms' impact, specifically in Sections 6 and 8 of this review.

The Treasury and the FIRB increased and revised their communication with investors from November 2020 to early 2021 to facilitate smooth implementation of the reforms. Engagement activities shifted away from providing general information on the reforms and focused on highlighting the availability of updated guidance material, the end date for the temporary zero-dollar thresholds on 1 January 2021 and changes to the foreign investment website.

The 2021 evaluation (see Section 9.2) was conducted, including consulting stakeholders, and published in December 2021, representing an evaluation of 10 months of the reforms being in operation.

Ongoing engagement was maintained on aspects of the foreign investment framework, not just specifically on the 2021 reforms. Treasury closely monitored the feedback it received from stakeholders, including through:

- established stakeholder engagement programs
- consultation on subsequent reforms in a 2022 discussion paper
- regular roundtables with domestic and international counterparts on managing the foreign investment framework
- Treasury engagement with its consultation partners and other government agencies
- meetings with investors and their advisors on proposed investment and proposals under assessment by Treasury and the ATO
- annual stakeholder surveys in administering Treasury's regulator functions published in Treasury's Annual Reports
- the dedicated foreign investment website, email (annual average of 1,362 emails responded to) and phone contact (annual average of 1,536 phone enquiries responded to)
- pre-Budget submissions to Treasury for each annual budget process
- general submissions from the public
- Ministerial correspondence (annual average of 328 pieces of correspondence related to foreign investment managed by Treasury).

In 2022 and 2023, the ATO undertook a series of stakeholder engagement and communication activities with both internal and external stakeholders to provide specific guidance and information on the introduction of Online services for foreign investors and the Register of Foreign Owned Australian Assets. These included:

- presentations both in person and online
- industry newsletters articles
- updated web content and guidance.

Foreign Investment Division within Treasury regularly engages with investors and their representatives, other industry stakeholders and other government agencies in administering the framework and actively sought feedback from these stakeholders. The FIRB also undertakes a range of engagement with investors and their representatives and other stakeholders on a regular basis.

Feedback received through the various channels above demonstrates that Treasury receives regular and ongoing feedback about the foreign investment framework and its impact on industry and the economy. Treasury also closely monitored the number of applications it received from investors to ensure that the reforms were not negatively impacting foreign investment into Australia. The current channels of ongoing feedback on the framework are considered sufficient in place of additional formal consultation for the purposes of this PIR.

7. Has the regulation delivered a net benefit?

On the whole, the 2021 reforms have delivered a net benefit. The 2021 reforms have met their objective of addressing emerging risks and global developments in foreign investment identified at the time. The 2021 reforms improved the operation of the framework by strengthening compliance and enforcement capabilities, streamlining less sensitive investments, and gathering foreign investment data to identify national security risks.

The national security actions introduced in 2021 have given the Government more oversight of investment in sensitive sectors that would not otherwise have been screened, to ensure that investment is not contrary to Australia's national interest and national security.

The streamlining of less sensitive investments has delivered some benefit through the availability of passive foreign government investor exemption certificates, despite the overall number of exemption certificate applications being low relative to the overall number of 'no objection notification' applications.

The measures to improve the integrity of the framework have delivered benefits for information sharing between Treasury, the ATO and other domestic agencies and international counterparts, as provided for in the legislation with appropriate safeguards in place.

The stronger compliance and enforcement powers have delivered benefits to provide clarity to investors on their compliance obligations and enabled the Treasury and ATO to exercise powers in a proportionate manner, including issuing infringement notices and orders directing investors to divest their interests in Australian entities.

Aspects of the reforms were expected to introduce additional regulatory costs on investors. Section 4 of the RIS, outlined the costs of implementing option 2 policies.

In general, foreign investors face two sources of regulatory burden from the foreign investment framework. Prior to making an investment, an investor is required to submit an application to the Government for screening. For investments in certain specified sectors, investors are also required to register their investment on a government register once the investment is realised. This has been a well-established practice for several decades.

The introduction of the national security actions may have contributed to this regulatory burden. As noted in the 2021 evaluation and in Section 6.1, while the overall number of approved national security investment proposals changes had been relatively small, a number of stakeholders had expressed uncertainty about their application. For example, when the national security actions were first introduced, many stakeholders were uncertain about which investments should be mandatorily or voluntarily notified. Since then, Treasury has updated Guidance Note 8: *National Security* to clarify these requirements. Streamlining measures, such as the passive foreign government investor exemption certificate introduced by the reforms, may have also contributed to the offsetting of some of the regulatory burden faced by investors.

While there is no fee charged for registering an investment, investors do pay fees for submitting a pre-acquisition application for screening. This ensures that it is foreign investors, not Australian taxpayers, that bear the financial cost of administering the foreign investment regime (fees are discussed further in Sections 2.6 and 6.6). Chart 6.3 shows an increasing trend in total fees collected since the 2021 Reforms. Increases to fees in July 2022 and April 2024 make it difficult to isolate the effects of the 2021 reforms beyond July 2022.

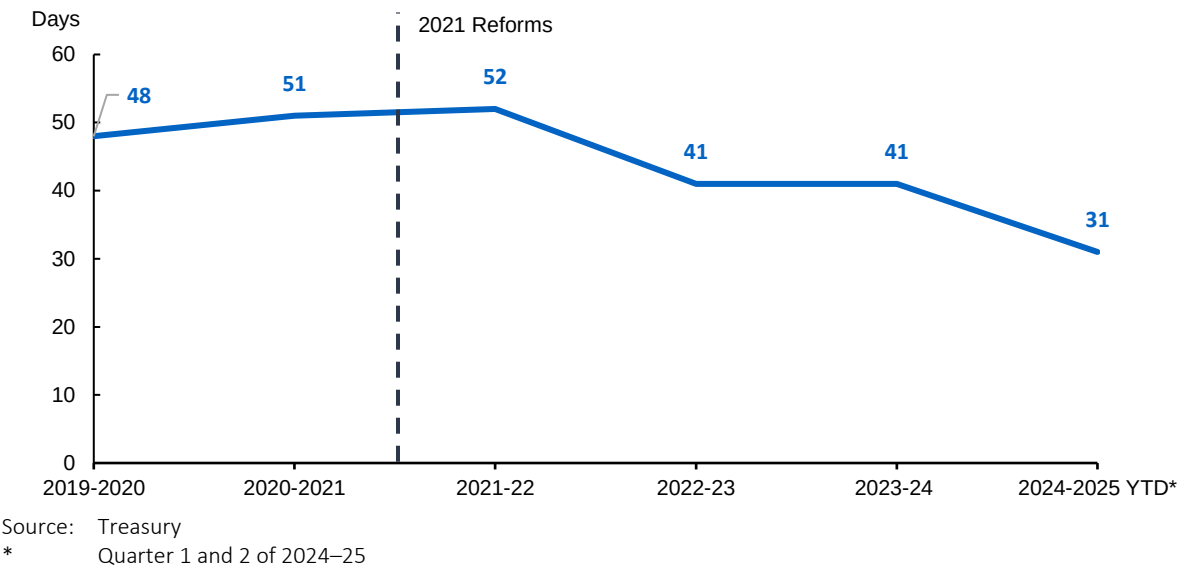
It is important to note that the regulatory burden of the foreign investment framework sits alongside factors such as economic conditions and other regulatory settings that influence foreign investors decision, making it challenging to isolate the impacts of these changes on investment interest and

behaviour. Even if a sustained shift in FDI inflows could be identified, it would not be possible to say whether or to what extent it may be attributed to changes in the foreign investment framework.

Australia has remained attractive as a destination for foreign investment as reflected in foreign direct investment (FDI) inflows, which from 2021 to 2023 averaged 3.3 per cent of GDP, compared with 1.1 per cent of GDP for the OECD and 1.9 per cent of GDP for the G20 economies.²² In its 2025 FDI Confidence Index, Kearney’s Global Business Policy Council ranked Australia tenth for the third year in a row for countries that are likely to attract the most foreign investment over the next three years.²³ This suggests that the current regulatory burden, costs and fees of the foreign investment framework are not a significant deterrent to foreign investment in Australia.

Many stakeholders indicated slow processing times and delays in receiving decisions as a key concern in the 2021 evaluation of the reforms. The median processing time for approved commercial investment proposals has been on a downward trend since the reforms were introduced, and when accounting for longer processing times during the COVID-19 pandemic during the zero-dollar threshold arrangements in 2020, demonstrate changes over this period have had a positive effect on reducing processing times. The completion and implementation of the Portal discussed in section 6.7 is likely to have a further positive impact on processing times as originally intended by the 2021 reforms. Additionally, the streamlining and strengthening reforms introduced in 2024 has had a cumulative positive effect on reducing median processing times, with Treasury adopting a new performance target of deciding 50 per cent of investment proposals within the 30-day statutory decision period from 1 January 2025.

Chart 8.1: Median processing times for approved commercial investment proposals



As the new Portal has only been fully operational for four months at the time of this review, it is too early to tell if it has had a net benefit on application processing times and the broader administration of the foreign investment framework. The Treasury and ATO continue to collaborate on data that is gathered for compliance functions.

22 World Bank, ‘Foreign Direct Investment, net inflows, 2024’, accessed 15 May 2025.
23 Paul A. Laudicina and Erik R., ‘Peterson, World at inflection the 2025 FDI Confidence Index, 2025’, accessed 15 May 2025.

With regard to competition impacts, any direct impact of the 2021 reforms on competition is difficult to determine from the current available data. Further, the 2021 reforms were not intended to be restrictive on competition. The foreign investment framework considers impacts on competition amongst considerations under the national interest test. Determining the competition impact of an investment is conducted in consultation with other Government agencies, including the Australian Competition & Consumer Commission.

Whilst the 2021 reforms have, overall, delivered a net benefit and were appropriate and efficient at addressing the problems at the time, ongoing feedback received from stakeholders discussed throughout this review indicates more can be done to improve the operation of the foreign investment framework to maximise investment flows and reduce regulatory burden while protecting Australia's national interest and national security. The operating context of the framework has also changed since the 2021 reforms. National security threats continue to increase due to intensifying geopolitical competition, while competition for global capital has also grown. Australia must ensure its approach to foreign investment evolves with these changes. The Treasury wrote to the Treasurer in August 2025 to support the Government's regulatory reform agenda, including further reforms to the foreign investment framework. Potential areas of focus include reducing the reporting burden for investors by simplifying reporting obligations, providing stronger and more flexible powers to manage high-risk investments and making application fees simpler and fairer for investors.²⁴

24 J Wilkinson, '[Regulatory reform to reduce red tape and ease burden on businesses](#)', The Treasury, August 2025, accessed 16 September 2025.

8. How was the policy implemented and evaluated?

8.1 Implementation

The reforms were enacted through the Reform Acts. Several initiatives facilitated the implementation of the reforms, including in the public documents on consultation for, and completion of, the 2021 Evaluation (detailed in section 9.2).²⁵ This focused on the legislative reforms whilst work was progressed on developing the RFOAA and modernising Treasury's IT systems. As discussed in Sections 6.5 and 6.7, the work on the RFOAA and Treasury's new IT system have since been completed.

Guidance material on the Foreign Investment website was updated in December 2020 and then again in July 2021, drawing on insights gained through consultations with stakeholders as well as the Treasury's own experience in administering the new framework during its first six months. As well as adding reform-related content, the guidance was consolidated into a more user-friendly format and the total number of guidance notes was reduced from 53 to 15.

On 30 September 2021, further guidance was published on compliance and reporting obligations and the application of the framework's compliance and enforcement measures. This was to reinforce the expectation that investors were aware of, understood and complied with their obligations under Australia's foreign investment laws.

The Treasury has continued to build its compliance capability since the reforms commenced. Since 2021, it has established the operational framework for the exercise of the new powers, recruited staff with relevant qualifications and experience, trained staff and published information on foreign investors' compliance obligations under the FATA. It has also improved processes relating to the recommendation of conditions during the proposal screening phase to provide a defensible foundation for compliance and enforcement activity.

8.2 Evaluation

In accordance with section 4 of the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020*, the Secretary to the Treasury completed an evaluation of the operation of these reforms on 10 December 2021 (the 2021 Evaluation).²⁶ The evaluation assessed the implementation of the Reform Acts and the extent to which those reforms strike the right balance between welcoming foreign investment into Australia and protection of Australia's national interest.

Overall, the 2021 Evaluation found that in their first year of operation, the reforms achieved the Government's intentions, particularly by enabling scrutiny of investments that may pose national security risks that previously were not subject to scrutiny. It was too early to determine whether the reforms affected foreign investment flows into Australia or the broader economy. In the first year of operation, indications were that the reforms to the framework struck the appropriate balance between supporting foreign investment into Australia and protecting the national interest. However, it

25 The Treasury, '[Evaluation of the 2021 foreign investment reforms: consultation paper](#)', 21 July 2021, accessed 15 May 2025.

26 The Treasury, '[Evaluation of the 2021 foreign investment reforms – final report](#)', 10 December 2021, accessed 15 May 2025.

was noted the framework should continue to be monitored to ensure it keeps pace with developments in the foreign investment landscape.

Since the 2021 Evaluation, and further enhancements to the framework between 2022 and 2024 discussed throughout this review, Treasury has continued to maintain ongoing frequent engagement with stakeholders as discussed in Section 7 above and receives regular feedback on issues regarding the framework and its administration, including through engagement by the FIRB.