

## **Foreign Investment Framework Reforms**

On the 1<sup>st</sup> of May 2024, Federal Treasurer Jim Chalmers announced at the Lowy Institute reforms to Australia’s Foreign Investment Framework, with an emphasis on making the framework stronger, more streamlined, and more transparent.

These reforms work in tandem with the Government’s ‘A Future Made in Australia’ policy, seeking to make Australia an attractive place for investment, while also protecting Australia’s national interest.

### **Strengthening the Framework**

The Government is seeking to strengthen Australia’s framework to respond to a more complex geopolitical and economic climate, and to allow investment that is in the national interest.

The changes:

- Put in place more robust, more efficient and more effective arrangements to scrutinise complicated or higher risk proposals.
- Dedicate more resources to screening foreign investment in critical infrastructure, critical minerals, critical technology, those that involve sensitive data sets, and investment near defence sites.
- Bolster the foreign investment compliance team to better monitor and enforce the conditions put on these transactions – including improving Treasury’s capacity to undertake on-site visits. This team will also support the use of the Treasurer’s call-in power to review investments that come to pose a national security concern in time.
- Make sure “foreign investors pay their fair share of tax.” This includes releasing updated guidance about tax arrangements that will attract greater scrutiny – such as those that are overly complex.

- Work across Government to ensure our foreign investment settings can better deal with emerging risks and are aligned with other regulatory frameworks. This will include work to ensure the Security of Critical Infrastructure Act is robust and capable of:
  - responding to risks;
  - enhancing energy network security;
  - better managing and monitoring investments close to defence sites;
  - and ensuring we have the right settings when it comes to the Government's critical minerals strategy and critical technologies more broadly.

### **More Streamlined**

The Government is streamlining the processing regime to provide faster approvals for known investors that are making investments in non-sensitive sectors, and that have a good compliance record.

- This will reduce wait times and compliance costs by:
  - In assessing whether an application is low risk, Treasury will consider the investor, the target of their investment, and the structure of the transaction.
  - For these applications, consultation timeframes will be shortened, making processing timely.
  - Also reducing paperwork for repeat investors, where the ownership information hasn't changed since their previous foreign investment application, and this is advised to Treasury early in the process.
- Treasury will adopt a new target of processing 50 per cent of cases within the initial statutory timeframe of 30 days from 1 January 2025.
- The Government is also facilitating foreign investment by:
  - Incentivising early applications and greater participation of foreign capital in the economy by providing a fee refund for foreign investment applications that were unsuccessful in a competitive bid process.
  - Releasing draft regulations to exempt interfunding transactions from foreign investment approval processes, to make it easier for institutional investors to manage their portfolios.
  - Allowing foreign investors to purchase established Build to Rent properties to build demand and incentivise construction of new projects.

- Removing “unnecessary” regulatory duplication in the assessment of competition issues through Government’s merger reforms.
- Clarifying that Pacific Australia Labour Mobility (PALM) scheme employers can buy established residential properties for their PALM employees to support Australia’s agricultural workforce.

## **Transparency**

To improve transparency, the Government is taking a new “risk-based approach,” outlined in more detail in the framework. It includes information on which sectors will attract more enhanced, effective and efficient screening, and the new fast-track process which “investors will start to feel the effect of from July 1 2024.”

Treasury will also publish more detail and public guidance on the Government’s approach to foreign investment and tax integrity over the coming months.

The Treasurer’s media release on the changes can be found [here](#).

The updated copy of Australia’s Foreign Investment Policy can be found [here](#).

For any in-depth details on the Treasurer’s announcement, please reach out to Hawker Britton’s Managing Director, Simon Banks, at [sbanks@hawkerbritton.com](mailto:sbanks@hawkerbritton.com).