



This chapter provides an overview of the Board and FIRB agencies, including details on the Board’s responsibilities, the Board’s membership and operational costs.

The Board is a non-statutory body established in 1976 to advise the Treasurer and the Government on foreign investment matters. The Board’s functions are advisory only. The Board does not make binding decisions on foreign investment for government. Responsibility for making decisions on foreign investment policy and investment proposals rests with the Treasurer.<sup>2</sup>

During 2017–18, the Board comprised six part-time members and a full-time executive member—the head of Treasury’s Foreign Investment Division. The Government seeks to attract members to the Board with deep knowledge and experience in a range of sectors that can actively contribute to the Board’s responsibilities. Strong probity procedures are in place to ensure any conflicts of interest that may occur are managed appropriately.

The Board considers all applications that are provided to the Treasurer for decision. To facilitate its advice, the Board meets face-to-face monthly, weekly by telephone, and out-of-session via email. Appendix A lists Board members’ attendance for the monthly face-to-face meetings during the reporting period.

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2 The Treasurer has provided delegations to senior officers in FIRB agencies to make decisions on applications that are consistent with the foreign investment framework. Certain applications are decided by other Treasury portfolio ministers rather than the Treasurer.

## **FIRB responsibilities**

The role of the Board is to:

- examine proposed investments that are subject to the *Foreign Acquisitions and Takeovers Act 1975* (the Act) and supporting legislation, and to make recommendations to the Treasurer and other Treasury portfolio ministers on the national interest implications of these proposals;
- provide advice on the operation of the foreign investment framework and related matters;
- foster awareness and understanding, both in Australia and abroad, of Australia's foreign investment policy;
- provide guidance to foreign persons and their representatives or agents on the operation of the foreign investment framework; and
- monitor and ensure compliance with the foreign investment framework.

## **FIRB membership**

As at 30 June 2018, the Board comprised the following six part-time members and a full-time executive member.

- Mr David Irvine AO (Chair)
- Mr Patrick Secker
- Ms Alice Williams
- Mr David Peever
- The Hon Cheryl Edwardes AM
- Ms Teresa Dyson
- Mr Roger Brake (full-time executive member)

Mr Michael D'Ascenzo AO's term expired on 1 January 2018 and Ms Dyson was appointed on 2 January 2018.

Since the end of the financial year, Mr Patrick Secker's term expired on 16 December 2018 and Mr Nick Minchin was appointed from 17 December 2018.



The FIRB; (left to right, back row) Patrick Secker, Roger Brake, David Peever, Alice Williams (front row) Teresa Dyson, Chair David Irvine and Cheryl Edwardes, 15 October 2018, Brisbane.

## FIRB membership as of 15 February 2019

### Mr David Irvine AO

#### *Chair and non-executive member*

Chair since 16 April 2017

Member since 3 December 2015

Mr Irvine has significant national security expertise as a former Director-General of both the Australian Security Intelligence Organisation and the Australian Secret Intelligence Service. He is also a former Australian Ambassador to China and former Australian High Commissioner to Papua New Guinea.



#### *Other roles*

Adjunct Professor – Australian Graduate School of Policy and Security at Charles Sturt University

Chair – Australian Cyber Security Centre – Cooperative Research Centre

## **Ms Alice Williams**

### ***Non-executive member***

Member since 16 July 2015

Ms Williams has over 25 years of senior management and board level experience in the corporate and government sectors. Former directorships include Ansett Australia, the Australian Accounting Standards Board, JP Morgan, NM Rothschild and State Trustees. She has been a consultant to listed corporations in Australia, the Gulf States and state and federal regulatory bodies.



### ***Other roles***

Commissioner – Victorian Competition and Efficiency Commission  
Director – Barristers Chambers Limited  
Director – Cooper Energy Ltd  
Director – Defence Health  
Director – Djerriwarrh Investments Ltd  
Director – Racing Victoria

## **Mr David Peever**

### ***Non-executive member***

Member since 1 February 2016

Mr Peever retired as Managing Director of Rio Tinto Australia in 2014, after 27 years with the company.

He was a member of the Prime Minister's Indigenous Advisory Council and chaired the Defence Minister's First Principles Review of the Defence Department. He is immediate past Chairman of Cricket Australia, a former Director of the Business Council of Australia and was Vice Chairman of the Minerals Council of Australia.



### ***Other roles***

Chairman – Brisbane Airport Corporation Group of Companies  
Director – Australian Foundation Investment Company  
Director – Melbourne Business School  
Director – Naval Group Australia  
Director – Stars Foundation

## The Hon Cheryl Edwardes AM

### *Non-executive member*

Member since 14 August 2017

Mrs Edwardes brings extensive legal and regulatory experience to the Board. Mrs Edwardes, a solicitor by profession, is a former Minister in the Court Government and was the member for Kingsley for 17 years.



In 1993, she became the first woman to be appointed Attorney General in Western Australia. Mrs Edwardes was awarded an Order of Australia in the Queen's Birthday Honours 2016 for significant service to the people and Parliament of Western Australia.

### *Other roles*

Commissioner – West Australian Football Commission  
Director – Atlas Iron

## Ms Teresa Dyson

### *Non-executive member*

Member since 2 January 2018

Ms Dyson is a non-executive director, serving on a range of listed, public and not-for-profit boards. Ms Dyson has experience as a senior tax adviser with over 25 years of experience, including as a partner at Ashurst and Deloitte, advising on infrastructure, financing, corporate tax issues, mergers and acquisitions activities, the not-for-profit sector, and tax controversy.



She brings corporate and governance experience from a range of sectors. Ms Dyson is a former member and chair of the Board of Taxation.

### *Other roles*

Director – Energy Qld Ltd  
Director – Energy Super  
Director – Genex Power Ltd  
Director – Seven West Media Ltd  
Director – UN Women National Committee Australia

## **Mr Nick Minchin**

### ***Non-executive member***

Member since 17 December 2018

Mr Minchin brings wide ranging senior leadership credentials, public policy, industry and international experience to the Board.

Recently, Mr Minchin served as the Australian Consul-General in New York.

Mr Minchin held a number of ministerial positions, including as Minister for Industry, Science and Resources from 1998 until 2001 and Minister for Finance and Administration from 2001 until 2007. While in office, he held the posts of Leader of the Government in the Senate, and Vice-President of the Executive Council. Mr Minchin was elected to the Australian Senate for South Australia in July 1993 and served until June 2011.



## **Mr Roger Brake**

### ***Executive member***

Member since 6 March 2017

The position of executive member is held by the Head of Treasury's Foreign Investment Division. The executive member provides the link between the Board and the Treasury, which provides secretariat support to the Board.



## Public speeches

During 2017–18, Mr Irvine, the Chair of the Board, gave several speeches and interviews relating to the foreign investment framework and, specifically, the systemic pressures that will influence the direction of policy. This included the keynote address at the Committee for Economic Development of Australia conference *Agribusiness Outlook: Investment, Innovation and Growth* and an address to the International CEO Forum.

These speeches encourage two-way dialogue between the Board and investors (or their representatives). Interactions with investors allow the Board to gain market intelligence and help it give high quality advice to the Government. Interactions with the Board allow investors to better understand the foreign investment application process.

Mr Irvine’s speeches on foreign investment are available on the FIRB website.



FIRB Chair David Irvine at the Annual Infrastructure Investors’ Forum, 14 August 2018

## FIRB agencies

The Board is supported in its responsibilities by Treasury’s Foreign Investment Division and Public Groups and International in the Australian Taxation Office (ATO). Treasury and the ATO are collectively referred to in this report as ‘FIRB agencies’.

### Treasury

Foreign Investment Division is responsible for advising government on all aspects of foreign investment policy. It is also responsible for the day-to-day administration of the foreign

investment framework in relation to business, agriculture and sensitive or complex commercial real estate cases.

## Australian Taxation Office

The ATO administers all aspects of foreign investment in residential real estate and non-sensitive commercial real estate and corporate reorganisation cases. The ATO also has responsibility for the collection of all foreign investment application fees, and for developing and administering the registers of foreign ownership of agricultural land, water entitlements and residential land.

## Stakeholder engagement

Stakeholder engagement by the Board and FIRB agencies focuses on:

- building and maintaining relationships to understand perspectives from the investment community;
- educating investors and their advisers about the operation of foreign investment rules;
- providing information and seeking feedback on foreign investment policy, processes and reforms;
- exploring specific trends and issues to ensure the Board remains informed of emerging issues; and
- working effectively with Commonwealth, state, and territory consult partners to assess foreign investment applications.

## Engagement with foreign investors

Engagement with foreign investors occurs through channels including:

- the FIRB website: This includes up to date guidance material for investors, which in 2017–18 was accessed by a large number of users from around the world;
- the foreign investment enquiries hotline: In 2017–18, the ATO handled over 18,700 calls on its foreign investment enquiry line and Treasury handled over 2,800 calls. These enquiries ranged from questions about investors' proposed acquisitions and their regulatory requirements, to media or investor queries about sectoral trends; and
- face-to-face sessions and webinars with stakeholders: FIRB agencies met with potential foreign investors, their representatives, industry peak bodies, and foreign government officials. Both Treasury and the ATO held several stakeholder meetings in 2017–18 that were tailored to promote understanding of certain aspects of the foreign investment framework, and seek stakeholders' feedback.



## Engagement with consult partners

Given the breadth of industries and transactions subject to the foreign investment framework, FIRB agencies rely on building strong relationships with key consult partners.

In 2017–18, Treasury held several meetings to enhance consult partner relationships. This included the *Foreign Investment Insights Day* in April 2018, which built collaborative relationships with consult partners from federal and state and territory governments. In addition, Treasury’s foreign investment team continued secondment programs with various consult partners, including the Australian Competition and Consumer Commission, the ATO, the Critical Infrastructure Centre (CIC), and private law firms. In 2017–18, the ATO held five presentations on the foreign investment framework to other government agencies and industry representatives.

Further detail on ongoing stakeholder engagement undertaken by, and on behalf of the Board, is included in the Regulator Performance Framework report.

## Operational costs

### The FIRB

**\$0.5 million**

Remuneration of Board members in 2017-18 was around 90 per cent of total Board expenses, with the remainder expended on travel, car hire and incidentals. Board members’ fees are determined by the Remuneration Tribunal.

### Treasury

**\$8.4 million**

Expenses for Treasury’s Foreign Investment Division (FID) mainly reflect employee salary and administrative costs. Over the course of 2017–18, FID employed an average of 47 full-time equivalent Treasury staff, and a number of external contractors and consultants including lawyers from the Australian Government Solicitor. FID staff are primarily located in Canberra and Sydney.

### The Australian Taxation Office

**\$5.8 million**

In 2017–18, the ATO employed 59 full-time equivalent staff, employed across the residential real estate application screening process, data matching and compliance activities, application screening of non-sensitive commercial land (vacant and non-vacant) and corporate reorganisations, and the development and maintenance of foreign ownership registers. The ATO’s teams are located across a number of sites including Sydney, Canberra, Newcastle and Melbourne.