



Australian Government  
The Treasury



# Quarterly Report on Foreign Investment

1 January – 31 March 2023

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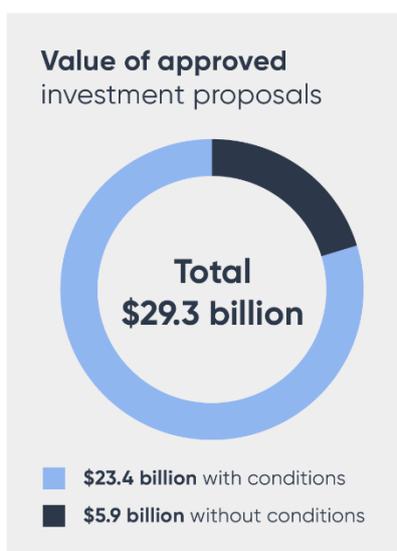
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# Key foreign investment framework data

Commercial<sup>1</sup> data for the period 1 January – 31 March 2023



<sup>1</sup> Commercial investments include all investments other than residential real estate.

# Foreign investment reporting 1 January to 31 March 2023

## Introduction

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

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

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

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

More information about Australia's foreign investment regulatory system is available at [www.firb.gov.au](http://www.firb.gov.au).

## About this report

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

This quarterly report sets out key performance data concerning the operation of Australia's foreign investment regulatory framework. The Treasury will seek to publish a quarterly report 6-8 weeks after the end of the relevant quarter, and annual reporting information will be set out in the Treasury's Annual Report.

The next quarterly report will be published in August 2023. Please see the Treasury Annual Report 2021-22 for information and data concerning 2021-22.<sup>2</sup>

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

## Investment proposals

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

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

### Investment proposals by number and value

Table 1: Number of investment proposals

	Commercial					Residential real estate				
	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	103	127	428	804	821	1,037	873	2,550	3,667	2,560
Approved without conditions	169	210	585	759	1,504	410	351	2,093	1,766	1,767
<b>Total</b>	<b>272</b>	<b>337</b>	<b>1,013</b>	<b>1,563</b>	<b>2,325</b>	<b>1,447</b>	<b>1,224</b>	<b>4,643</b>	<b>5,433</b>	<b>4,327</b>
Withdrawn	30	36	108	205	436	17	31	70	144	455

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

	Commercial					Residential real estate				
	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	23.4	43.7	102.6	270.2	163.5	1.2	1.0	3.6	1.6	2.2
Approved without conditions	5.9	15.0	34.0	60.3	63.7	0.4	0.4	2.3	6.0	3.5
<b>Total</b>	<b>29.3</b>	<b>58.7</b>	<b>136.6</b>	<b>330.5</b>	<b>227.2</b>	<b>1.6</b>	<b>1.4</b>	<b>5.9</b>	<b>7.6</b>	<b>5.7</b>

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

The number of commercial investment proposals approved in this quarter was 272 (see Table 1), a decrease of 65 proposals compared to the 337 proposals approved in the previous quarter. This is consistent with previous reductions in approvals during the Christmas and summer holiday period each year. In comparison, the quarterly average<sup>3</sup> number of commercial investment proposals was 391 for 2021-22, and 581 for 2020-21. The large number of proposals approved in 2020-21 was due to the temporary zero-dollar thresholds that applied at the time in response to the COVID-19 pandemic.

<sup>3</sup> Quarterly average has been derived from yearly total divided by four.

The value of commercial investment proposals approved in this quarter was \$29.3 billion (see Table 2), a decrease of \$29.4 billion from the previous quarter result of \$58.7 billion. This reflects the volatility in the total value of foreign investments from quarter to quarter. The quarterly average value of commercial investment proposals for the financial year to date is \$45.5 billion, compared to \$82.6 billion in 2021-22, and \$56.8 billion in 2020-21.

There were 30 commercial investment proposals withdrawn in this quarter, which is fewer than the 36 withdrawals in the previous quarter, and fewer than both the 2021-22 quarterly average (51 withdrawals) and the 2020-21 quarterly average (109 withdrawals).

The number of residential proposals approved by the ATO in this quarter was 1,447 which is an increase of 223 from the previous quarters result of 1,224.

### Approved investment proposals by investment source and industry sector

In this quarter, the United Kingdom was the largest source country for approved commercial investment proposals by value (\$4.2 billion). The next four largest source countries by value were Netherlands (\$3.6 billion), United States (\$3.3 billion), Malaysia (\$2.7 billion) and Canada (\$2.2 billion). China and Republic of Korea dropped out of this quarter's top 10 sources of investment compared to the previous 1 October -31 December 2022 quarter top ten, but they still remain in the top ten for 2022-23 YTD for approved value of commercial investment proposals.

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

	Number					Value (\$ billion)				
	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
United Kingdom	28	39	131	223	309	4.2	0.7	6.0	6.5	5.2
Netherlands	22	11	78	113	133	3.6	0.1	4.6	4.3	3.6
United States	120	134	457	746	891	3.3	16.7	31.5	118.9	57.0
Malaysia	11	8	42	72	74	2.7	0.2	3.7	1.4	0.3
Canada	72	96	286	387	355	2.2	3.8	12.7	31.5	18.8
United Arab Emirates	33	12	90	174	141	1.1	0.1	2.0	6.1	3.4
Japan	32	34	102	133	153	0.9	0.6	2.3	7.1	5.1
New Zealand	7	11	33	47	59	0.9	0.3	2.0	1.7	1.6
Singapore	49	64	194	385	336	0.8	5.2	10.8	24.0	21.3
Germany	16	18	74	112	119	0.4	0.1	1.9	6.0	11.8

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

\* This table is sorted by the value of approved proposals in the current quarter.

In this quarter, China was the largest source of investment for approved residential real estate investment proposals by number and value (\$0.7 billion), as it was in 2021-22 and 2020-21. The next two largest sources of residential investment were Hong Kong (\$0.1 billion) and Vietnam (\$0.1 billion).

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

	Current quarter	Previous quarter	Number			Value (\$ billion)				
			2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
China	606	440	1,775*	2,317	2,227	0.7	0.6	2.3	2.4	2.7
Hong Kong (SAR)	123	130	467	689	518	0.1	0.1	0.4	0.6	0.5
Vietnam	81	123	333	391	174	0.1	0.1	0.4	0.4	0.1
Taiwan	90	49	220	133	81	0.1	0.0	0.2	0.1	0.1
Singapore	34	33	235*	173	194	0.0	0.1	0.2	0.1	0.1
India	90	91	335	306	78	0.0	0.0	0.1	0.2	0.0
United Kingdom	61	53	172*	201	224	0.1	0.1	0.2	0.2	0.2
Nepal	67	58	193	140	23	0.1	0.0	0.1	0.1	0.0
Indonesia	47	33	140	95	82	0.1	0.0	0.1	0.1	0.1
Malaysia	34	37	156	158	170	0.1	0.0	0.1**	0.2	0.2

Notes: \* This table is sorted by the value of approved proposals in the current quarter.

\*\* Variations from previously published statistics are due to the reconciliation processes.

The largest target sector for proposed investment for the quarter by value was Finance and Insurance, with a total value of \$12.5 billion. In the previous quarter, Commercial Real Estate was the largest target industry sector for commercial foreign investment.

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

	Current quarter	Previous quarter	Number			Value (\$ billion)				
			2022-23 YTD	2021-22	2020-21	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Finance & Insurance	18	19	63	105	91	12.5	12.9	31.0	94.7	10.7
Services	93	97	313	486	809	7.7	7.5	30.0	109.0	76.9
Commercial Real Estate	75	109	332	61	907	5.6	19.3	40.1	66.6	86.6
Manufacturing, Electricity & Gas	26	46	126	134	224	1.8	12.9	20.1	37.2	35.8
Residential Real Estate	1,447	1,224	4,643	5,433	4,327	1.6	1.4	5.9	7.6	5.7
Agriculture, Forestry & Fishing	54	58	155	187	197	1.0	4.4	7.0	8.5	5.8
Mineral exploration & development	23	30	87	135	161	0.7	1.7	8.4	14.7	11.5

Note: \* This table is sorted by the value of approved proposals in the current quarter.

# Consideration of investment proposals

## Median processing times

In this quarter, Treasury’s median processing time for approved commercial investment proposals was 42 days, which is an increase from the median processing time of 38 days in the previous quarter. The financial year to date median processing time was also 42 days, which is significantly lower than the median processing times of 52 days in 2021-22 and 51 days in 2020-21.

The decrease in median processing times in the first three quarters of this financial year compared to the previous two financial years is attributable to continuing improvements in efficiency of foreign investment application processing across Treasury’s investment review, compliance, governance and national security functions. These improvements reflect the benefits of deeper experience and improved capability in the Treasury officers and consult partner agencies reviewing proposals.

**Table 6: Median processing times for approved commercial investment proposals**

Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
42 days	38 days	42 days	52 days	51 days

Consistent with the reduction in the financial year to date median processing times, 70 per cent of cases were processed in 60 days or less, a significant improvement from 59 per cent in 2021-22 and 57 per cent in 2020-21 in the same processing time period.

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

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

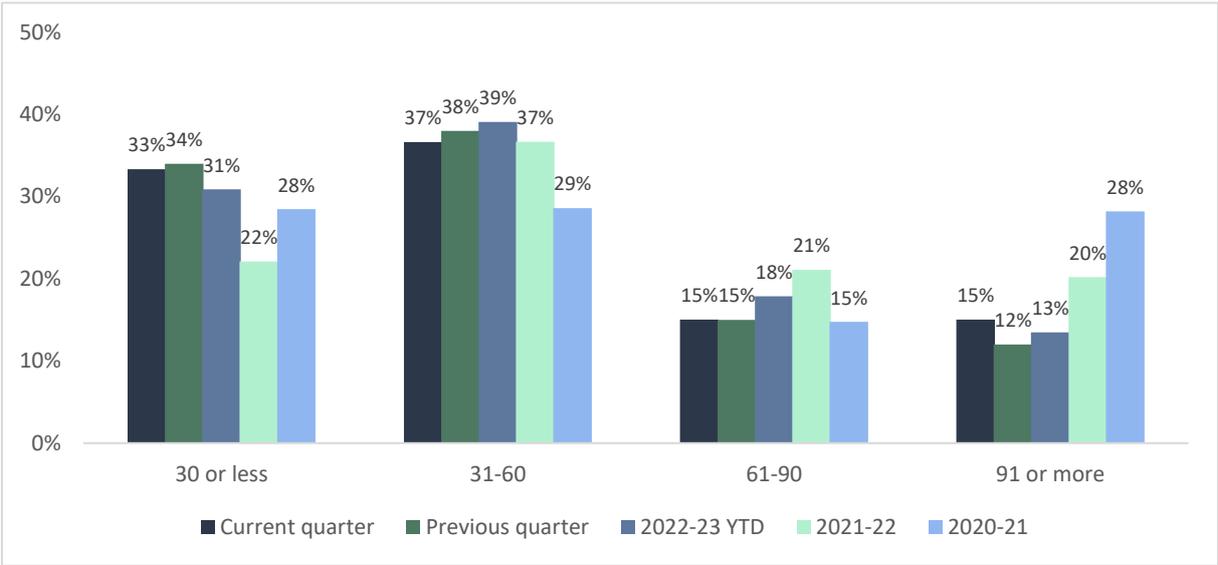


Table 7: Residential real estate investment proposal processing times

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

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

## National Security

In January 2021, foreign investment reforms<sup>4</sup> came into effect that introduced new national security powers. These reforms broadened the types of transactions subject to mandatory notification and created a scheme for voluntary notification by investors for actions of any value which may pose national security concerns<sup>5</sup>.

Table 8: Number of approved national security investment proposals

		Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
<b>Mandatory</b>	Approved with conditions	2	2	13	15	1
	Approved without conditions	18	17	56	44	14
	<b>Total</b>	<b>20</b>	<b>19</b>	<b>69</b>	<b>59</b>	<b>15</b>
<b>Voluntary</b>	Approved with conditions	0	1	2	19	3
	Approved without conditions	8	7	21	15	12
	<b>Total</b>	<b>8</b>	<b>8</b>	<b>23</b>	<b>34</b>	<b>15</b>
<b>Both</b>	Approved with conditions	0	0	0	5	0
	Approved without conditions	0	1	1	8	2
	<b>Total</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>13</b>	<b>2</b>

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

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

	Current quarter	Previous quarter	2022-23 YTD	2021-22	2020-21
Approved with conditions	0.0	0.4	0.8	6.3	0.4
Approved without conditions	0.9	2	3.9	3.8	1.0
<b>Total</b>	<b>0.9</b>	<b>2.4</b>	<b>4.7</b>	<b>10.1</b>	<b>1.4</b>

Of the 272<sup>6</sup> commercial foreign investment proposals approved in this quarter, 28 related to national security actions that would not have been captured prior to January 2021. Of these national security actions, 20 were mandatory notifications and 8 were voluntary notifications.

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

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

6 See Table 1.

## Compliance

Maintaining strong compliance with Australia's foreign investment legislation is a priority for the Australian Government. It expects all foreign investors are aware of, understand and comply with their obligations under Australian law, including Australia's foreign investment laws. The Foreign Investment Compliance Framework Policy Statement<sup>7</sup> helps foreign investors understand and meet their compliance obligations.

The compliance program aims to achieve a balance between providing assurance, detecting and remedying non-compliance, while encouraging and supporting foreign investors to meet their obligations. Where non-compliance is identified or suspected, a risk-based and proportionate response is taken to rectify non-compliance; this may include enforcing compliance through assurance activities, penalties, and sanctions.

Compliance data on residential real estate is reported on an annual basis in the *Treasury Annual Report 2021-22*<sup>8</sup>.

### Condition-mandated reports

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

Table 10: Number of condition mandated reports

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Condition mandated reports received	702	485*	1,935	2,005
Condition mandated reports assessed	701	772	2,390	2,524**

\* Variations from previously published statistics are due to the reconciliation processes.

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

The Treasury assessed 589 of the 702 condition mandated reports received in this quarter, and the remaining reports assessed this quarter are from previous quarter(s). The condition mandated reports that were not assessed this quarter were predominantly received in the last fortnight of the quarter and will be assessed and included in next quarter's report. In the next quarter, Treasury will undertake an analysis of reports received and assessed to improve its risk-based approach to condition mandated report assessment.

### Notice of events or actions taken

Foreign investors who have been given a No Objection Notification or an Exemption Certificate from 1 January 2021 must notify the Treasurer of certain events or when they take certain actions. In this quarter, the Treasury received 334 notices of events or actions taken from investors.

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

8 See tables 43 and 44 on pages 227-228 in <https://treasury.gov.au/publication/p2022-329943>

Table 11: Number of statutory notices received

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Notices of events or actions taken received	334	385*	1096	1,264

\* Variations from previously published statistics are due to the reconciliation processes.

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

During this quarter a nudge campaign targeted 64 investors and their agents, reminding them of their statutory reporting obligations. Where the Treasury identifies non-compliance, we undertake a risk-based assessment and determine a proportionate response. Our assessment can include a consideration of whether this was the first time the investor had been non-compliant or whether there is a pattern of non-compliant behaviour. Further compliance actions are taken to address non-compliance as determined necessary by the assessment.

Additionally, a campaign was conducted targeting 16 foreign persons to ensure they were adhering to their condition mandated reporting obligations subject to the *Foreign Acquisitions and Takeovers Act 1975* and related legislation.

## Foreign investment audit program

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

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

### Regulator audits

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

Treasury is currently undertaking 10 regulator audits as part of its 2022-23 Regulator Audit program. These audits are focused on compliance with data and operational control conditions. Of the regulator audit candidates eight of the 10 were selected in 2022-23 and two candidates have been carried over from previous years' programs.

Table 12: Number of Regulator Audits

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

### Independent audits

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

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

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

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

Table 13a: Number of Independent Audits in progress

	At current quarter end
Proposals under review	4
Reports in progress by investor	21
Reports under review by Treasury	33

Table 13b: Number of Independent Audits completed

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Proposals approved	27	19	57	56
Reports completed	14	14	35	46

### Referrals and assessment of potential non-compliance

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

- self-reporting by foreign persons (both through mandatory reporting via conditions or s98C, D, E of the *Foreign Acquisitions and Takeovers Act 1975*, and through voluntary disclosures outside mandatory reporting);
- disclosures made by foreign persons during routine internal activities and engagement;
- information received from members of the public concerning suspected breaches of Australia's foreign investment laws; and
- referrals received from other sources.

In this quarter, Treasury received 27 referrals of alleged non-compliance with Australia’s foreign investment laws.

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

	Current quarter	Previous quarter	2022-23 YTD	2021-22
Self-reported potential non-compliance with conditions (voluntary disclosures outside mandatory reporting)	3	6	20	44
Failure to notify related referrals/reports from the public*	7	10***	27	46
Failure to notify related referrals/reports identified from other source**	17	13***	34***	28
<b>Total</b>	<b>27</b>	<b>29</b>	<b>81</b>	<b>118</b>

\* 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.

\*\*\* Variations from previously published statistics are due to the reconciliation processes or reporting rules.

The Treasury assesses each referral using a risk-based approach and develops a specific response to each. Where we conclude that the risk posed by a referral is high, then we may proceed directly to an investigation of the alleged non-compliance. In contrast, for low-risk referrals, we may take no further action or seek to educate the investor about their compliance obligations.

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

- Over the quarter we opened 28 new sensitive and complex monitoring assessments, finalised 28 assessments, and continued ongoing engagement with several others.
- Our ongoing direct engagement with foreign persons on potential non-compliance with the framework has helped improve investor behaviours. This includes efforts to bring foreign investors back into compliance and ensure non-compliance is avoided in the future.
- Over the financial year, foreign investors have increasingly engaged with Treasury to enhance their governance and controls and become more proactive in terms of their detection of potential non-compliance. Treasury’s engagement often results in guidance to the foreign person to help ensure that potential non-compliance is avoided.

## Matters under investigation

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

- the nature of the behaviour of the investor;
- whether that behaviour is persistent and repeated;
- how intentional or reckless the alleged non-compliance behaviour may be; and

- the risk to Australia’s national interest or national security.

**Table 15: Number of investigation matters**

	In progress		Completed		
	at current quarter end*	Current quarter	Previous quarter	2022-23 YTD	2021-22

Investigations	3	0	0	1	4
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\* Investigations on hand at the end of the current quarter may include investigations carried over from the previous quarter.