



OFFICIAL

Your compliance obligations under the *Foreign Acquisitions and Takeovers Act 1975*

Treasurer's message



Maintaining strong compliance with Australia's foreign investment legislation is a priority for the Australian Government. I expect all foreign investors are aware of, understand and comply with their obligations under Australian law, including Australia's foreign investment laws.

We take a risk-based, proportionate, and professional approach when assessing compliance with Australia's foreign investment laws and when responding to non-compliance. I strongly encourage you to disclose any non-compliance with your obligations. Failure to comply with these laws is a serious matter, can result in imprisonment and/or significant monetary penalties and can be considered in your future interactions with Government.

The Hon Jim Chalmers MP
Treasurer

Your obligations

As a foreign investor, it is your responsibility to ensure that you understand and comply with your obligations regarding Australia's foreign investment framework.

You must comply with the conditions imposed on a No Objection Notification (NON) or an Exemption Certificate (EC). The *Foreign Acquisitions and Takeovers Act 1975* (the FATA) also requires you to report to the Treasurer when certain events occur.

Failure to comply is a serious matter and our response will be proportionate. For a corporation, this may range from administrative action to penalties over \$30 million, 10 years imprisonment, or both. Individuals may also be subject to penalties.

Compliance with conditions

Any conditions on your NON or EC have been imposed to manage the national interest or national security risks associated with the investment.

Some conditions require you to report to the Treasury on certain matters, including your compliance with

conditions. These reports should be submitted via the Foreign Investment Portal (Portal) by the due date(s) specified in the conditions. Please submit reports via the Portal even if conditions specify an email address or do not specify a method at all.

Notify us of actions

You must notify the Treasurer via the Portal or the ATO via the [Register of Foreign Ownership of Australian Assets](#), as applicable:

- when you take a core Part 3 action specified in a NON or an EC
- when a notifiable situation occurs following a core Part 3 action being taken.

You must notify the Treasurer no later than 30 days after the latest of:

- the day on which you acquired the interest in a security, asset, trust or Australian land
- the day on which you took the core Part 3 action or the day a specified related event that needs to be notified took place or

- the day on which the NON or EC was given.

Compliance with notices

You may receive a notice that requires you to give information or documents to the Treasurer (or another person). You must comply with the notice.

Actions not covered in a NON or EC

A NON or EC relates only to the specified action. All notifiable actions and notifiable national security actions not covered by the NON or EC must be separately notified in accordance with the FATA.

Record keeping

You must make and keep records of every act, transaction, event or circumstance relating to:

- Any foreign investment action, notifiable action, notifiable national security action or reviewable national security action relevant to an order or decision made by the Treasurer for a period of 5 years after taking the action.
- An action taken by the person specified in an EC for a period of 5 years after taking the action.
- Whether you are complying with a condition in a NON, EC or notice imposing conditions, you must make and keep these records for a period of 2 years after the condition ceases to apply to you.

These records must be kept in English or in a format that means they can be readily converted into English. Records may be kept in hard copy or electronic form.

We may ask you to provide these records to demonstrate your compliance with conditions imposed on a NON or EC, and any other obligations under the FATA. A failure to do so may constitute an offence and be subject to penalties under the FATA.

Our approach to compliance

The [Foreign investment: Compliance framework policy statement](#) provides an overview of the Treasury's approach to compliance and enforcement activities.

Our compliance and enforcement powers allow us to prevent, identify and respond to instances of non-compliance, and include the power to direct investors to take or cease particular actions. We can also give an infringement notice and use monitoring and investigation powers in accordance with the *Regulatory Powers (Standard Provisions) Act 2014* (the RPA).

How we assess your compliance

We may undertake compliance assessments and investigations by:

- seeking information from investors
- using our powers under the FATA to require information or documents to be given or

- using the monitoring powers and investigation powers under the RPA.

Decisions on the most appropriate method of assessing compliance or investigating non-compliance are made on a case-by-case basis.

Our powers under the RPA allow authorised officers to enter premises to assess compliance or investigate possible non-compliance. Authorised officers are appointed employees in the Treasury and may:

- search, observe and examine activities on a premises
- inspect, examine, measure or test things relevant to compliance with the FATA
- inspect and take extracts or copies of documents, and make photo, audio or video records
- bring and operate equipment and data storage devices
- ask questions and request documents
- secure equipment (to obtain expert assistance) and evidence (of non-compliance) for up to 24 hours
- be accompanied by other persons assisting the authorised officer where necessary and reasonable
- seize evidential material when entering a premises under an investigation warrant.

Tell us about possible non-compliance

The Treasury strongly encourages voluntary disclosure of non-compliance. We may prefer to work with you to achieve compliance in cases where:

- non-compliance is inadvertent and self-reported
- the breach is administrative and
- you are willing to remediate the breach as quickly as possible.

Lower penalties may also apply for non-compliance that is voluntarily disclosed. Details on how to make a voluntary disclosure are available on the [foreign investment website](#).

More information

You can find more information about notification, reporting requirements and your compliance obligations ([here](#)). We encourage you to check these matters on the [foreign investment website](#) or engage with us [via](#) the Portal. You can contact us on 1800 050 377 from Australia or +61 2 6216 1111 from overseas.

This factsheet provides a summary of the relevant law and tries to avoid legal language wherever possible. Some provisions of the law referred to have exceptions or important qualifications. This factsheet is therefore not a substitute for obtaining your own legal advice.