



**Australian Government**  
**Foreign Investment Review Board**

## **REGULATOR PERFORMANCE FRAMEWORK**

The Australian Government has established a Regulator Performance Framework which forms an important part of the Government's commitment to reduce unnecessary and inefficient regulation. The Framework encourages regulators to minimise the regulatory burden created through their administration of regulation.

The Framework establishes a common set of six outcomes-based key performance indicators (KPIs) that will allow for the comprehensive assessment of regulator performance and their engagement with stakeholders, specifically:

1. Regulators do not unnecessarily impede the efficient operation of regulated entities;
2. Communication with regulated entities is clear, targeted and effective;
3. Action undertaken by regulators are proportionate to the regulatory risk being managed;
4. Compliance and monitoring approaches are streamlined and coordinated;
5. Regulators are open and transparent in their dealings with regulated entities; and
6. Regulators actively contribute to the continuous improvement of regulatory frameworks.

Regulators must establish metrics to support assessment against the KPIs.

The Foreign Investment Review Board (FIRB) has established the following metrics as a base from which the annual assessment of FIRB's performance will be made. In making its assessment the FIRB will draw on a range of data sources relevant to each metric. The FIRB will also complement the assessment with qualitative information that outlines the specific actions taken over the relevant period which relate to FIRB's performance against each KPI.

From 1 July 2015, the FIRB's performance will be assessed annually through externally validated self-assessments against the Framework. Assessment results will be published on the FIRB's website.

More information about the Framework can be found on the [Cutting Red Tape](#) website.

**KPI 1 — Regulators do not unnecessarily impede the efficient operation of foreign investors**

Measures of good regulatory performance	Activity-based evidence and metrics
<p>Demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.</p>	<ul style="list-style-type: none"> <li>• Regular, ongoing consultations or engagement with stakeholders on policies and processes to be undertaken, including industry associations.                             <ul style="list-style-type: none"> <li>– Number of FIRB information sessions.</li> <li>– Number of meetings with industry associations.</li> <li>– Number of meetings with government agencies.</li> </ul> </li> <li>• Reporting will include a qualitative assessment of stakeholder satisfaction with these consultations.</li> <li>• Have in place processes and regularly monitor to ensure the confidentiality of information provided by applicants.</li> </ul>
<p>Minimise the potential for unintended negative impacts of regulatory activities on foreign investors</p>	<ul style="list-style-type: none"> <li>• Incorporate feedback from stakeholders into our processes.</li> <li>• Seek feedback on processes from other Government agencies and how this impacts on the FIRB processes.</li> </ul>
<p>Implement continuous improvement strategies to reduce the costs of compliance for foreign investors.</p>	<ul style="list-style-type: none"> <li>• A qualitative assessment on processes will be undertaken and appropriate changes made to processes.</li> <li>• Ensure a consistent and commercially neutral approach to reviewing applications.                             <ul style="list-style-type: none"> <li>– An internal manual is available to staff which provides guidance on reviewing applications consistently and on a commercially neutral basis. A qualitative assessment of staff use of the manual will be made.</li> </ul> </li> </ul>

**KPI 2 — Communication with foreign investors is clear, targeted and effective**

Measures of good regulatory performance	Activity-based evidence and metrics
<p>Provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.</p>	<p>Information on the website is clear, accessible and up to date.</p> <ul style="list-style-type: none"> <li>• Where possible, the FIRB website conforms to the Government’s accessibility guidelines and web content is aligned across ATO, FIRB and other relevant government agencies.</li> <li>• A qualitative assessment will be made on the clarity and timing of the website publication.</li> </ul>

<p>Consider the impact on foreign investors and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.</p>	<p>In consultation with stakeholders, FIRB considers the possible impacts of potential policy changes when making recommendations to Government.</p> <ul style="list-style-type: none"> <li>• Number of FIRB information sessions.</li> <li>• Number of meetings with industry associations.</li> <li>• Number of meetings with government agencies.</li> <li>• A qualitative assessment of stakeholder satisfaction with the consultation process will be undertaken.</li> </ul>
<p>Provide decisions and advice in a timely manner, clearly articulating expectations.</p>	<p>A qualitative assessment of stakeholder satisfaction with the timeliness of general advice will be undertaken.</p> <p>Awareness of commercial deadlines under which applicants are operating.</p> <p>Notification on the decisions taken is provided as soon as possible after that decision has been reached.</p> <ul style="list-style-type: none"> <li>• Proportion of applications completed within the statutory period of 30 days.</li> </ul>
<p><b>KPI 3 — Actions undertaken by regulators are proportionate to the regulatory risk being managed</b></p>	
<p><b>Measures of good regulatory performance</b></p>	<p><b>Activity-based evidence and metrics</b></p>
<p>Apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions. Recognise the compliance record of foreign investors.</p>	<p>FIRB ensures that there is sufficient and appropriate public information to aid stakeholders in complying.</p> <ul style="list-style-type: none"> <li>• FIRB website information is updated in a timely manner.</li> <li>• Reporting will be based on a qualitative assessment of the timeliness of web updates and, more generally, the comprehensiveness of information provided to assist stakeholders to comply.</li> </ul> <p>Compliance action and scrutiny is risk-based (i.e. the level of scrutiny takes account of the compliance record and degree of risk).</p> <p>Application of penalties takes account of factors such as the compliance record of the foreign investor.</p>
<p>Consider all available and relevant data on compliance.</p>	<p>Compliance strategies utilise a range of information available, including information from third parties with a view to reducing the burden of compliance on the foreign investor.</p> <ul style="list-style-type: none"> <li>• Types of information sources used such as information from ATO, immigration and Austrac.</li> <li>• Qualitative assessment undertaken on types of information sources used.</li> </ul>

**KPI 4 — Compliance and monitoring approaches are streamlined and coordinated**

Measures of good regulatory performance	Activity-based evidence and metrics
<p>Utilise existing information to limit the reliance on requests made to foreign investors and share the information among other regulators, where possible.</p>	<p>Information is shared among government agencies.</p> <ul style="list-style-type: none"> <li>• Number of inter-departmental committee (IDCs) meetings.</li> <li>• Consult with relevant government agencies.</li> <li>• Draw on other government agencies' information, data and systems (as appropriate) to reduce information requests to applicants where possible.</li> <li>• Draw on previous applications as appropriate and where possible.</li> <li>• Utilise public sources of information including information such as search engines and stock exchange filings.</li> </ul> <p>A qualitative assessment undertaken on the sharing and use of existing information.</p>
<p>Base monitoring and inspection approaches on risk and where possible, takes into account the circumstance and operational needs of foreign investors.</p>	<p>Regular review and assessment of agreed conditions and undertakings imposed on foreign investment proposals.</p> <ul style="list-style-type: none"> <li>• Number of reviews of conditions and undertakings in a year.</li> </ul>

**KPI 5 — Regulators are open and transparent in their dealings with foreign investors**

Measures of good regulatory performance	Activity-based evidence and metrics
<p>Ensure information on risk-based frameworks is publicly available in a format which is clear, understandable and accessible where possible.</p>	<p>Clear information on FIRB website, including for example policy documents, guidance notes and annual reports, which gives an overview of the framework, including the decision making process.</p> <p>A qualitative assessment undertaken of the information on the website.</p>
<p>Be open and responsive to requests from foreign investors regarding the operation of the regulatory framework, and approaches implemented by regulators.</p>	<p>Email and phone queries are adequately responded to:</p> <ul style="list-style-type: none"> <li>• Data on phone enquiries including waiting times and number of calls taken.</li> </ul> <p>Number of stakeholder engagement events.</p>
<p>Ensure performance measurement results are published to ensure accountability to the public.</p>	<p>Performance-related information published in annual reports in a timely manner.</p>

**KPI 6 — Regulators actively contribute to the continuous improvement of regulatory frameworks**

<b>Measures of good regulatory performance</b>	<b>Activity-based evidence and metrics</b>
Establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.	Qualitative assessment of processes designed to allow active and regular engagement with stakeholders. <ul style="list-style-type: none"><li>• Number of stakeholder engagement events.</li></ul>
Engage stakeholders in the development of options to reduce compliance costs.	Number of stakeholder events held to facilitate participation in the development and/or amendment of regulatory frameworks and a qualitative assessment of stakeholder satisfaction with those events.
Regularly share feedback from stakeholders and performance information with policy departments and across the Foreign Investment and Trade Policy Division (FITPD) and other areas in Treasury to improve the operation of the regulatory framework and administrative processes.	Processes are in place to facilitate the flow of information between the regulator on policy and regulatory functions in FITPD, other areas of Treasury and also other government agencies. <ul style="list-style-type: none"><li>• Number of IDC meetings held.</li><li>• Number of stakeholder engagement events.</li></ul> Processes in place to improve understanding of foreign investment regime. <ul style="list-style-type: none"><li>• Attend external meetings and seminars.</li></ul>