

**Foreign Investment
Review Board**

**Annual Report
2011-12**

© Commonwealth of Australia 2012

ISBN 978-0-642-74875-1

This publication is available for your use under a Creative Commons Attribution 3.0 Australia licence, with the exception of the Commonwealth Coat of Arms, the Treasury logo and where otherwise stated



The full licence terms are available from
<http://creativecommons.org/licenses/by/3.0/au/legalcode>.

Use of Treasury material under a Creative Commons Attribution 3.0 Australia licence requires you to attribute the work (but not in any way that suggests that the Treasury endorses you or your use of the work).

Treasury material used 'as supplied'

Provided you have not modified or transformed Treasury material in any way including, for example, by changing the Treasury text; calculating percentage changes; graphing or charting data; or deriving new statistics from published Treasury statistics – then Treasury prefers the following attribution:

Source: *The Treasury*

Derivative material

If you have modified or transformed Treasury material, or derived new material from those of the Treasury in any way, then Treasury prefers the following attribution:

Based on Treasury data

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are set out on the It's an Honour website (see www.itsanhonour.gov.au)

Other Uses

Inquiries regarding this licence and any other use of this document are welcome at:

Manager

Communications

The Treasury

Langton Crescent Parkes ACT 2600

Email: medialiaison@treasury.gov.au

A copy of this document appears on the Foreign Investment Review Board website at www.firb.gov.au.



Australian Government
Foreign Investment Review Board

c/-Treasury Building
Langton Crescent
PARKES ACT 2600
Telephone 02 6263 3795
Fax 02 6263 2940

20 December 2012

The Hon Wayne Swan MP
Deputy Prime Minister and Treasurer
Parliament House
CANBERRA ACT 2600

Dear Deputy Prime Minister and Treasurer

I am pleased to present the annual report of the Foreign Investment Review Board for the year ended 30 June 2012. This report has been prepared in accordance with the Board's responsibility to advise the Government on foreign investment matters. It outlines the activities of the Board, provides a summary of the year's foreign investment proposals, contains an overview of the main provisions of the *Foreign Acquisitions and Takeovers Act 1975* and a copy of Australia's Foreign Investment Policy.

The Board examines significant foreign investment applications and advises on potential national interest concerns. In 2011-12, the Board examined a range of high profile investment applications, including in the resources sector which made up the majority of business applications, continuing the trend from previous years.

Excluding real estate applications, mineral exploration and development applications accounted for around 46 per cent of the value of approvals. The United States was again the largest investor in 2011-12 in terms of the value of all approvals (21 per cent of the total value), followed by the United Kingdom and China. The Board considered and monitored applications from a wide range of countries and observed recent investment by sovereign wealth and superannuation funds from Europe and North America, demonstrating Australia's continued competitiveness as an investment destination.

Media and community interest in foreign investment has continued to be significant this year, with agricultural land and businesses remaining the major focus. The Board has monitored the policy issues in this area and assisted with the preparation of the release in January 2012 of a Policy Statement on Foreign Investment in Agriculture, which provides guidance on factors the Board and the Government typically consider in assessing foreign investment applications involving the agricultural sector.

The Board welcomes the announcement of a Commonwealth foreign ownership register for agricultural land as well as other transparency measures in this area. The Board is assisting the working group established to develop the register. The working group is seeking stakeholder views on the register including the extent of ownership interests to be captured, interaction with existing state and territory land title registers and issues of monitoring, enforcement, reporting and disclosure.

The Board has actively fostered improved awareness and understanding of Australia's foreign investment arrangements, both in Australia and overseas. For instance, my participation in the delegation that accompanied your visit to China in July 2012 underlines the importance of regular engagement with overseas officials and potential investors to sustain an informed and constructive dialogue on investment issues. This year has also seen the continued development of the Board's strategy for engagement with the business community and their advisers to promote a better flow of information to support applications. In addition to presentations and seminars in Sydney, Melbourne and Perth, this strategy is supported by guidance for business on issues that have been identified by business, the Board and the Secretariat.

Over the course of the year, the Board continued to monitor the changes announced in April 2010 to the way acquisitions of residential property by temporary residents are examined. An on-line real estate application system has assisted the lodgement process for applicants and facilitated more timely decisions on foreign investment proposals as it reduces the need for data to be manually entered. Around half of all residential real estate applications are now lodged online and the Board is considering ways to encourage more applicants to use this technology.

The Board has also considered the issue of corporate governance and the need for foreign investors to be aware of and meet Australia's high standards in this area. The Board has continued its long standing practice of examining the consistency of proposals with these standards and Australian commercial practices. The Board also released factsheets on the corporate governance, corporate law, market activity, directors' duties, competition and consumer law and taxation obligations on the website and investors are directed to this information when they receive foreign investment approval.

On behalf of all members of the Board, I would like to take this opportunity to commend the outstanding contribution of my predecessor, Mr John Phillips AO, who retired as Chairman in April 2012 after 15 years of dedicated service to the Board. It was a great honour for us to have worked with John on the Board.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brian Wilson', with a long, sweeping flourish extending to the right.

Brian Wilson
Chairman

CONTENTS

GLOSSARY	VII
MAIN POINTS	XI
CHAPTER 1: FOREIGN INVESTMENT REVIEW BOARD	1
Board membership	4
The role of Treasury's Foreign Investment and Trade Policy Division	5
Administration of the Policy	5
Information, advice and education.....	5
Consideration timeframe	6
Examination and approval process	6
Consultation arrangements	6
National interest.....	7
Handling of commercially sensitive and personal information	9
2011-12 Outcomes	9
Cost of the Board's operations	9
Consideration of proposals and enquiries.....	10
Monitoring and compliance activity	10
CHAPTER 2: FOREIGN INVESTMENT PROPOSALS	13
Features of the Foreign Investment Review Board statistics	15
Methodological and data caveats	15
Applications considered	19
Applications decided	20
Approvals by value	22
Approvals by sector	22
Agriculture, forestry and fishing	23
Finance and insurance	24
Manufacturing.....	24
Mineral exploration and development	24
Resource processing	25
Services	25
Tourism	25
Real estate.....	26
Approvals by country of investor	29
APPENDIX A: AUSTRALIA'S FOREIGN INVESTMENT POLICY	33
APPENDIX B: OVERVIEW OF THE FOREIGN ACQUISITIONS AND TAKEOVERS ACT 1975.....	55

TABLES

Table 2.1: Applications considered: 2006-07 to 2011-12 (number of proposals)	20
Table 2.2: Applications decided: 2006-07 to 2011-12 (proposed investment)	20
Table 2.3: Total approvals by value and number 2008-09 to 2011-12	22
Table 2.4: Total approvals by industry sector in 2011-12	23
Table 2.5: Manufacturing sector approvals in 2011-12	24
Table 2.6: Mineral exploration and development sector approvals: 2008-09 to 2011-12	24
Table 2.7: Services (excluding Tourism) sector approvals: 2008-09 to 2011-12	25
Table 2.8: Investment in residential real estate by type of expenditure and number of proposals approved from 2008-09 to 2011-12	27
Table 2.9: Investment in commercial real estate by type of expenditure and number of proposals approved from 2008-09 to 2011-12	28
Table 2.10: State and Territory distribution of proposed investment in real estate in 2011-12.....	29
Table 2.11: Approvals by country of investor in 2011-12 – industry sector	30

CHARTS

Chart 2.1: Applications decided 2006-07 to 2011-12 – number of proposals	21
Chart 2.2: Applications decided 2006-07 to 2011-12 – proposed investment	21
Chart 2.3: Total approvals by value by industry sector in 2011-12 – proposed investment.....	23