



This checklist contains information that must be included in all applications (except residential real estate applications). For guidance on residential real estate applications, visit www.ato.gov.au/general/foreign-investment-in-australia/residential-investment.

Please note additional tax information requirements may be relevant to your application, including where you are considering reorganising your structure. For detail, visit <http://firb.gov.au/Application-Checklist-Appendix>.

Significant delays in processing can be expected for applications that do not include information outlined in the checklist.

All applications must have a cover letter that:

Identifies the significant actions and/or notifiable actions under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (FATA), including references to the relevant sections of the legislation and why the transaction is captured.

Confirms how the transaction meets the relevant threshold set out in the FATA.

Provides the details of the entity that is taking the action (i.e. the acquirer - the entity that will be directly acquiring the proposed interest), the parent entity and the target, including:

- name, major activities and locations, incorporation details, major subsidiaries and associated entities, and details of any Australian operations;
- existing investments or assets of the acquirer, the parent entity and associated entities in Australia (including the value of the investments or assets);
- total global assets or assets under management for the acquirer and the target (including market capitalisation if applicable);
- any information of relevance to the national interest pertaining to: domestic or international investigations; rulings or ineligibilities, or conditions imposed as part of previous foreign investment approvals; or exclusions relating to the acquirer, the parent entity, associated entities or the target; and
- details of any existing relationship or economic interest between the parties.

Provides the following details about the proposed transaction:

- reasons why the proposed transaction is not contrary to the national interest;
- commercial rationale behind the proposed transaction;
- description of the acquirer's intentions for the business or land, including any changes to the board composition, management structure or strategic direction of the target;
- information about any sales process, including details of the vendor;
- the consideration and calculation basis;
- description of the type of proposed interest and any associated rights and obligations (e.g. assets, shares, land);
- any engagement with other Australian regulatory agencies (e.g. ATO) including details of the engagement and contacts at those agencies; and
- implementation steps diagram or explanation that describes the source of funds and flow of funds to the acquirer to implement the proposed transaction.

Ownership and control details of the acquirer, including:

– identities and country of origin of all investors who hold an interest of greater than 5 per cent and details of any beneficial owners, including:

identities of all foreign government investors where the aggregate interest of foreign government investors from one country is 5 per cent or more (directly or via a fund); and

for fund managers, details of investors in both the fund manager and the fund;

– level of control of all investors identified, including the types of rights that the investors have (e.g. voting rights, veto rights, member of investment committee); and

– aggregate percentage of any beneficial ownership by foreign government investors (by country).

All cover letters must also include the following additional information:

ENTITIES AND BUSINESSES

If the proposal related to interests in entities or businesses, including the following additional information:

Please provide structure diagrams including holding entities (both direct and indirect) of the target and target group both (1) pre-implementation and (2) post-implementation.

Copies of last financial year's audited financial statements or, if unavailable, latest financial records or unaudited financial statements of the target and the acquirer.

AUSTRALIAN LAND

If the proposal relates to interests in Australian land, include the following additional information:

The value of interests in Australian land and the value as a proportion of the target's total assets.

Consideration for the highest value land title.

Size of the Australian land (hectares).

For agricultural land and mining or production tenements, a map showing the land being acquired and the surrounding area.

For agricultural land, evidence of an open and transparent sales process.

An explanation of the current use of the land in accordance with definitions in the FATA (agricultural land, mining or production tenements, residential land and/or commercial land).

FOREIGN GOVERNMENT INVESTOR STARTING AN AUSTRALIAN BUSINESS

If the proposal is to start a new business, include the following additional information:

Description of the proposed business plan, including:

- primary activity proposed and target clientele;
- proposed location of head office and where it will operate, including intended lease holdings or property to be purchased;
- total funds to be invested and timeframe for investment; and
- expected number of employees.

Details of any patents, royalty, export franchises and licensing arrangements.

List of any regulatory approvals that the new business will require in Australia

FUNDING OF AN AUSTRALIAN BUSINESS

For each entity in the post-implementation structure provide the following details:

– **Equity instrument** (existing or proposed):

- a. name of the entity issuing the equity instrument;
- b. nature of the equity instrument (e.g. ordinary share, ordinary unit, with or without voting or distribution rights);
- c. identity of each holder of equity instruments;
- d. number or percentage of equity instrument held of that type by each holder; and
- e. amount paid by each holder for their equity instrument.

– Where applicable, details of the counterparties to any equity swap or similar arrangement (for a single counterparty and its associates) covering more than a 1 per cent economic interest in the same company.

– **Debt instrument** (existing or proposed):

- a. name of the entity issuing the debt instrument;
- b. nature of each debt instrument issued (e.g. type, term, principal, interest rate, subordination/security, external bank facility, investor loan);
- c. identity of each holder of the debt instrument;
- d. amount provided by each holder under the debt instrument;
- e. details of any derivative and/or guarantee associated with the debt instrument; and
- f. risk rating for each cross-border related party financing arrangement entered into, or to be entered into, by the parties as per ATO Practical Compliance Guideline PCG 2017/4.

Detail any other type of financing not identified above, of the entities in the structure.

For the purposes of Division 820 of the *Income Tax Assessment Act 1997* (Cth) detail:

- the revaluation of any assets; and
- the method applied to determine the maximum allowable debt amount and advise any exemptions that may be claimed.