



# Budget 2017

## A foreign investment regime that facilitates investment and protects the national interest

Australia's economic success has been built on capital from overseas. However, Australians must have confidence it is on our terms and not contrary to the national interest.

Foreign investment drives economic growth, creates skilled jobs, improves access to overseas markets and enhances productivity. Without foreign investment, production, employment and income would all be lower.

In December 2015, the Government implemented the most significant reforms to the foreign investment framework in 40 years. These reforms have resulted in stronger enforcement of the rules, stricter penalties for those found to be non-compliant, greater scrutiny around foreign investment in agriculture and application fees on all foreign investment proposals, to ensure that Australian taxpayers no longer fund the administration of the system.

Building on the 2015 reforms, the Government is streamlining and enhancing the framework, reducing complexities and regulatory burdens so that the rules are clearer and Government resources can be better allocated to investment proposals that warrant greater levels of scrutiny. These changes will both make it clearer what is required for foreigners to invest in Australia, and more straightforward for the Government to administer and focus on key risk areas.

While we maintain one of the most open regimes in our region (we do not for instance operate black lists), it is important that the national interest is protected. The changing nature of foreign investment is presenting complex and evolving risks to Australia's critical infrastructure. To better address these risks the Government announced the establishment of the Critical Infrastructure Centre on 23 January this year.

In addition to these changes, the Government is tightening the rules around foreign investment in residential real estate. Further information can be found in the Factsheet: 'Stronger rules for foreign investors owning property'.

### Streamlining and Enhancing the Foreign Investment Framework

This package of amendments will enhance and streamline the operation of the foreign investment framework by facilitating business investment, reducing red-tape and simplifying the fee framework.

Decreasing the number of fee-tiers will reduce complexity and achieve more equitable fee outcomes. In addition, implementing more standardised fees for acquisitions of similar values and legislating current fee waiver principles will provide a more transparent and consistent approach. A summary of the proposed commercial fees is attached.

Key regulatory amendments will improve the treatment of residential applications, such as allowing failed off the-plan purchases to be considered as 'new', and introducing new business exemption certificates to reduce regulatory burden.

We are ensuring that the framework is robust so that it focuses on transactions that require screening in the national interest while minimising the necessity to screen low sensitivity cases.

These changes have been informed by stakeholders, following feedback on a consultation paper released on 8 March 2017.

## Establishment of the Critical Infrastructure Centre

It is important that foreign investment in critical infrastructure is scrutinised to ensure that any potential national interest risks can be addressed. Critical infrastructure assets acquired by foreign government investors have always been screened under the framework.

With increased privatisation, supply chain arrangements being outsourced and offshored, and the shift in our international investment profile, Australia's national critical infrastructure is more exposed than ever to sabotage, espionage and coercion.

To better manage such complex and evolving national security risks to our critical infrastructure, the Attorney-General and the Treasurer announced the establishment of the Critical Infrastructure Centre on January 23 this year.

The Centre will assist Government in managing these risks proactively – by coordinating the expertise of key government agencies to identify and assess high-risk critical infrastructure before issues arise.

As part of the measure to establish the Critical Infrastructure Centre, the Government will increase foreign investment fees for purchases of residential property by 10 per cent from 1 July 2017 for properties valued below \$10 million. This increase will occur instead of the standard annual indexation for the 2017-18 financial year.

## Summary of proposed commercial fees from 1 July 2017

The below fees apply to all foreign persons, including foreign government investors, unless otherwise specified.

Fee by category and value <sup>1,2</sup>			
Category	\$10 million or less	Above \$10 million	Above \$1 billion
Commercial land (vacant and developed) <sup>3</sup>	\$2,000	\$25,300	\$101,500
Actions relating to entities and businesses	\$2,000	\$25,300	\$101,500
Category	\$2 million or less	Above \$2 million	Above \$10 million
Agricultural land	\$2,000	\$25,300	\$101,500
Flat fees			
Exemption certificate	\$35,000		
Mining and production tenements	\$25,300		
Legal or equitable interest in mining, production or exploration tenement <sup>4</sup>	\$10,100		
An interest of at least 10 per cent in securities in a mining, production or exploration entity <sup>4</sup>	\$10,100		
Starting an Australian business <sup>4</sup>	\$10,100		
Internal reorganisation	\$10,100		
Variation <sup>5</sup>	\$10,100		

1. Lower fee rules: these replace the existing de minimis rule. Other legislated lower fee rules will not be changed.
2. Discretionary fee waivers for entities carrying on business acquiring multiple land titles under one agreement or acquiring securities in an entity that primarily holds residential land will be legislated.
3. A \$2,000 fee will also apply for foreign government investors for developed commercial land acquisitions under \$55 million.
4. Only applicable to foreign government investors. A \$2,000 fee will apply where the fee would otherwise be more than 25 per cent of the consideration.
5. The variation fee payable will not exceed the initial application fee.