

**HD Australia: Investment regulations**

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Political/**commercial** background: Foreign investment

Australia welcomes foreign investment, since the country faces considerable challenges finding capital to finance growth. The Foreign Acquisitions and Takeovers Act 1975 provides the legislative framework for foreign investment. In certain circumstances, the act requires prospective investors to submit proposals to the Foreign Investment Review **Board** (FIRB), which restricts investments based on the investor's identity and specified monetary limits. The FIRB also tends to limit investments in "sensitive" sectors, such as airlines, airports, banking, defence, encryption and security technology, media, nuclear energy, real **property**, shipping, and telecommunications, among others (see Basic investment approval).

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Investors need approval from the FIRB to pursue projects in sensitive sectors. Approval also is required for companies whose proposed projects exceed various capital limits established by the FIRB. These limits are adjusted annually for inflation, and the general limit was set at A\$248m for 2014, unchanged from 2013. Investment in developed **commercial** real **estate** is limited to A\$5m-A\$54m, depending on whether the **property** in question is "heritage listed" by the Australian government. Free-trade agreements (FTA) between Australia and New Zealand (Investment Protocol to the Australia-New Zealand Closer Economic Relations Trade Agreement) and Australia and the US (Australia-US FTA) raise the general threshold for New Zealand and US companies to A\$1.078bn for 2014 but keep it at A\$248m for New Zealand and US investments in "sensitive" sectors. For 2014 the A\$1.078bn limit also applies to New Zealand and US investments in developed **commercial** real **property** (see Acquisition of real **estate**).

In its annual Trade and Assistance Review for fiscal year 2012/13 (June-July), released on June 27th 2014, the Australian government's Productivity Commission recommended that the FIRB raise limits for all countries to A\$1.078bn. It also recommended eliminating barriers to foreign investment, such as on national airline Qantas, national telecom Telstra, airports, and media. The Qantas**Sale** Amendment Bill 2014, introduced to Parliament in March 2014, seeks to remove foreign ownership restrictions on Qantas (currently a foreign **firm** may own only up to 25% of the airline); the bill was awaiting parliamentary action as of end-August 2014.

Most investment projects beyond the sensitive sectors and below the relevant investment limits do not need FIRB approval. However, the FIRB may block any investment that it deems as "contrary to national interest".

Foreign direct investment (FDI) inflows stood at A\$91.3bn in 2013 compared to A\$92.2bn in 2012, according to the Australia Bureau of Statistics (ABS). Data from the ABS show that the profile of the sectors that attract the most investment is changing. The financial industry, which for many years has been the largest recipient of inward investment, was surpassed in 2010 by the mining sector. According to the ABS, on a country level, FDI inflows to Australia in 2013 were dominated by the US (at A\$31.7bn, or close to 35% of total inflows), followed by **China** (A\$8.8bn, or 9.6%), Japan (A\$6.6bn, 7.2%), Bermuda (A\$4.1bn, 4.5%), South Korea (A\$3.7bn, 4.0%), and the Netherlands (A\$3.5bn, 3.8%). FDI inflows from **China** have increased more than fortyfold over the past decade, from A\$218m in 2003.

According to the most recent data from the FIRB, A\$135.7bn in investment was approved in 2012/13, down from A\$170.7bn in 2011/12. The FIRB considered 13,322 proposals in 2012/13, approved 12,731

of them (7,196 with conditions) and rejected none. There were 446 proposals that were withdrawn and 145 that were determined not to require the FIRB's approval. The FIRB's statistics offer only a rough guide to actual foreign investment since they include proposals that were approved but never implemented, and proposals whose investments may be spread over several years.

There is no discrimination in Australia's capital markets against foreign-owned companies seeking credit or loan facilities. The absence of exchange controls provides great fund-raising flexibility.

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**IN** iairtr : Air Transport | itsp : Transportation/Shipping

**NS** c13 : Regulation/Government Policy | gpol : Domestic Politics | ccat : Corporate/Industrial News | gcat : Political/General News | gpir : Politics/International Relations | ncat : Content Types | nfact : Factiva Filters | nfcpin : FC&E Industry News Filter

**RE** austr : Australia | apacz : Asia Pacific | ausnz : Australia/Oceania

**IPD** Regulations

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