



HOW TO APPLY¹

This guide will help you submit a **business proposal** for approval under the *Foreign Acquisitions and Takeovers Act 1975* (the FATA) and/or the policy. If you are unsure whether you should submit an application, please refer to the [policy](#).

2. As of January 2008, the Foreign Investment Review Board (FIRB) has moved to electronic record keeping for all foreign investment applications (including business proposals). Please note that submitting applications electronically (via **email or fax**) improves processing times – it is not necessary to post originals in addition to electronic lodgement. Applications should only be posted to FIRB if you are unable to submit your application via email or fax.

Email: firbapplications@treasury.gov.au

Fax: 02 6263 2940

Post: The Executive Member
Foreign Investment Review Board
c/- The Treasury
Langton Crescent
PARKES ACT 2600

3. **Please do not combine multiple documents as a single attachment.** Each individual element of the application should be submitted as separate file attachments to the email. The preferred format for attachments would be as .pdf or .doc files. Applicants are requested to avoid attaching multiple individual pages as separate picture files. You should also include a webpage hyperlink to the appropriate current web addresses of any other material or information relevant to the application. Separate attachments would include the following:

- covering explanatory letter;
- statutory notice under section 25/26/26A;
- company annual reports and financial statements;
- copy of the agreement (if applicable); and
- other supporting documents (if applicable).

4. Please note that emails larger than 10 megabytes will be **blocked**. If necessary, please send multiple emails as follows:

- an initial email with the covering explanatory letter and statutory notice, clearly labelled as 'Part 1' of the application (ensuring it is below 10 megabytes); and
- subsequent email(s) with the additional attachments, clearly labelled as 'Part 2', etc.

5. **No fees or charges** apply to applications.

¹ Refer to the separate [How to Apply](#) guide for acquisitions of residential real estate.

STATUTORY NOTICES

6. Acquisitions which are subject to the *Foreign Acquisitions and Takeovers Act 1975* (the FATA) require a statutory notice to be submitted to FIRB in accordance with the relevant form as prescribed under the *Foreign Acquisitions and Takeovers (Notices) Regulations 1975* as follows:

- section 26A notice for acquisitions of interests in Australian urban land;
- section 26 notice for acquisitions of shares in an Australian corporation; or
- section 25 notice for all other acquisitions.

7. Acquisitions to which both sections 26 and 26A apply (that is, substantial shareholdings in Australian urban land corporations) **do not** require two notices – a section 26A notice must be submitted but it is not necessary to also submit a section 26 notice.

8. All statutory notices are available for download from the FIRB website at www.firb.gov.au or by calling the general enquiry number.

9. Foreign investment proposals which are not subject to the FATA do not require a statutory notice.

SUPPLEMENTARY INFORMATION

10. In addition to the relevant statutory notice (if applicable), supplementary information is required for foreign investment applications as outlined in the attachments:

- [Attachment A](#) – acquisitions of interests in non-residential real estate;
- [Attachment B](#) – acquisitions (including shares and assets) involving existing corporations and businesses;
- [Attachment C](#) – proposals to establish new businesses; and
- [Attachment D](#) – applications for designation as an Integrated Tourism Resort (ITR).

11. Please forward copies of all transaction documents related to the proposal (for example, signed acquisition agreement or joint venture agreement).

12. Applications involving a foreign government-related entity must also address the six issues outlined in the 'Guidelines for foreign government investment proposals' (see Attachment A of the [policy](#)):

FURTHER ENQUIRIES

13. Further information on the policy may be found at FIRB's website, www.firb.gov.au.

14. Should you have any further enquiries please contact FIRB's Executive on:

General enquiries:

Phone: 02 6263 3795

Fax: 02 6263 2940

Email: firbenquiries@treasury.gov.au

From overseas:

+61 2 6263 3795

+61 2 6263 2940

firbenquiries@treasury.gov.au

ATTACHMENT A

NON-RESIDENTIAL REAL ESTATE ACQUISITIONS

Please refer to the separate [How to Apply](#) guide for acquisitions of **residential** real estate.

For acquisitions of **non-residential** real estate, in addition to a section 26A statutory notice (if applicable), proposals must include the information outlined below.

A *Parties to the proposal*

For both the purchaser and the vendor:

- name;
- major activities and locations;
- major subsidiaries and associated companies (not required for the vendor);
- a copy of the latest financial statements, which should include total assets, net tangible assets and pre-tax profits (not required for the vendor);
- details of ownership (including identity of ultimate or beneficial owners); and
- country of ultimate control of purchaser.

B *Details of the property*

- Street address and land title details;
- description of the property (for example, commercial/retail/industrial building or vacant land), including its current use; and
- a copy of the contract/agreement.

C *Consideration*

- Amounts involved and the source of the funds.

D *Reason(s) for the proposal*

- From viewpoints of the vendor, target and purchaser.

E *Brief description of the purchaser's future intentions for the property, including amount of development expenditure proposed (if applicable).*

- If the proposal involves vacant land, include:
 - full details of the proposed development; and
 - an undertaking signed by the proposed purchaser stating that continuous development will commence within 12 months of foreign investment approval for residential development or within 5 years for non-residential development and that they will spend at least 50 per cent of the purchase price of the land developing the site.

ATTACHMENT B

ACQUISITIONS (INCLUDING SHARES AND ASSETS) INVOLVING EXISTING CORPORATIONS AND BUSINESSES

In addition to the relevant statutory notice (if applicable), proposals involving acquisitions of shares or assets of an Australian corporation or business, or other arrangements resulting in control of an Australian business or corporation, must include the information outlined below.

A *Parties to the proposal*

For both the purchaser and target business:

- name;
- major activities and locations;
- major subsidiaries and associated companies;
- a copy of the latest financial statements, which should include total assets, net tangible assets and pre-tax profits;
- details of ownership (including identity of ultimate or beneficial owners); and
- country of ultimate control of purchaser.

B *Type of proposal*

- Acquisition/issue of shares:
 - the number, class and voting rights of shares, including the percentage of the total equity involved.
- Acquisition of assets:
 - description of the assets involved.
- Agreements/arrangements entered into or terminated; alteration of a constituent document:
 - full details, supported by copies of appropriate documents or relevant extracts.

C *Consideration*

- Amounts involved and the source of the funds.

D *Reason(s) for the proposal*

- From viewpoints of the vendor, target and purchaser.

E *Brief description of the purchaser's future intentions for the business, including amount of development expenditure proposed (if applicable).*

ATTACHMENT C

ESTABLISHING A NEW BUSINESS

Proposals involving the establishment of a new business or project do not require a statutory notice but should include the information outlined below.

A *Parties to the proposal*

- Name, location and major activities of the investor; and
- A copy of the latest financial statements for the investor which should include total assets, net tangible assets and pre-tax profits.

B *The proposal*

- Description of proposal including the total funds to be invested, the proposed location of the investment and the purpose of the investment.

C *Ownership of the proposed business*

- Details of proposed beneficial ownership, voting and board representation rights, and other rights concerning management and control.

D *Industry information*

- A description of the industry in which the new venture will be engaged.

E *Other considerations*

- Information should also be provided on any patents, royalty and licensing arrangements and export franchises held by the applicant which might be made available to the local firm and the basis on which these would be made available; what restrictions, if any, will be placed on the new venture together with any plans for local research and development.
- Describe the environmental impact, if any, of the proposal, and provide details of any environmental studies undertaken.

ATTACHMENT D

APPLICATION FOR DESIGNATION AS AN INTEGRATED TOURISM RESORT

Proposals to apply for designation as an Integrated Tourism Resort do not require a statutory notice but should include the information outlined below.

- Details of the ownership of the development company including the nationality and current country of residence of all major shareholders;
- the real property description and area (in hectares) of each stage of the development;
- a construction timetable for any scheduled construction and the estimated cost of both existing and planned development;
- a full description of the core hotel including number of rooms, features and facilities;
- a full description of all existing and planned recreational facilities;
- details of 'non hotel' residential real estate including the condition(s) in which it is to be sold and the estimated sales price;
- a copy of the proposed long term (that is, 10 years or more) lease agreement between the resort operator and the owners of the developed residential property; and
- an undertaking from the applicant to provide a detailed annual report of the ownership of all of the residential real estate within the resort including:
 - the name and address of the owner(s) and whether foreign;
 - the consideration and date of the most recent purchase or the estimated value of the residential real estate;
 - for companies, the name and place of ordinary residence of all substantial shareholders; and
 - for trusts, the name and place of ordinary residence of all major beneficiaries.