



Auditor-General for Australia



9 November 2020

Senator Slade Brockman
Chair
Senate Economics Legislation Committee
economics.sen@aph.gov.au

Dear Senator Brockman

Inquiry into the Foreign Investment Reform (Protecting Australia's National Security) Bill 2020

The Australian National Audit Office (ANAO) published the following performance audit report that you may find relevant to the Senate Economics Legislation Committee's Inquiry into the Foreign Investment Reform (Protecting Australia's National Security) Bill 2020.

- Auditor-General Report No. 48 of 2017-18, [Compliance with Foreign Investment Obligations for Residential Real Estate](#)

Information about what the audit assessed, concluded and recommended is attached. The audit report is available online at www.anao.gov.au.

Should the Committee require further information in relation to this matter, my office would be pleased to provide you with a briefing at a time convenient to you or appear as a witness at a hearing.

To arrange a briefing, please contact our External Relations area at [REDACTED]

Yours sincerely

[REDACTED]

Grant Hehir

Report No. 48 of 2017-18, Compliance with Foreign Investment Obligations for Residential Real Estate examined the effectiveness of the Australian Taxation Office's (ATO) and Treasury's management of compliance with foreign investment obligations for residential real estate. To form a conclusion against the audit objective, the following criteria were adopted:

- compliance and enforcement strategies and detection arrangements were in place to support compliance activities;
- activities were undertaken to promote voluntary compliance and effectively address identified instances of potential non-compliance; and
- the effectiveness of compliance arrangements was monitored and reported.

The audit concluded:

- The ATO's management of compliance with foreign investment obligations for residential real estate is becoming effective as it progressively implements more sophisticated approaches to encourage compliance and detect and address non-compliance.
- The ATO has developed processes for compiling a land register of residential real estate but faces considerable challenges in populating the register with reliable data in coming years, which it needs to overcome in order to be effective.
- The ATO has assessed and addressed compliance risks in relation to foreign investment obligations for residential real estate but has not yet compiled and implemented a compliance and enforcement strategy. To promote voluntary compliance with those obligations, the ATO has developed a series of communication strategies. The strategies, which have largely been implemented, incorporate a multi-platform communication approach targeting key audiences with priority messages.
- The ATO has undertaken a significant amount of work to develop processes and systems to support the detection and investigation of non-compliance with foreign investment obligations for residential real estate. There are a number of minor enhancements the ATO could make to improve its largely effective investigation processes, with more substantial work required in its development of processes to actively detect non-compliance.
- Monitoring and reporting on compliance activities for foreign investment in residential real estate has been expanded with the transfer of responsibilities from Treasury to the ATO. Many indicators have been developed to measure the success of compliance activities and external reporting established for compliance investigations, outcomes and penalties. The monitoring and reporting arrangements are largely effective, and could be strengthened by more broad coverage of effectiveness—of the ATO in managing the overall compliance risk and Treasury in meeting the policy intent for foreign investment in residential real estate.

The ANAO recommended that:

1. The Australian Taxation Office compiles and implements a residential foreign investment compliance and enforcement strategy, which draws on existing risk assessment and treatment documentation and information about the results of prior compliance activities.
2. The Australian Taxation Office prioritises developing and finalising data matching rules to address key compliance risks to foreign investment in residential real estate.

The ATO agreed to the recommendations.