

NAME OF ACQUISITION

INSERT CASE NUMBER

Foreign Investment Division
Compliance Audit XX 2019

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Executive Summary



The Transaction

Provide an overview of the transaction, including key details such as:

- initial request dates
- no objection notification dates
- whether the transaction went ahead
- relevant references to the FATA



Scope & Methodology

This audit is examining the compliance of **XX** with regards to the conditions imposed in the no objection notification.

The scope of this audit excludes an assessment of the tax-related conditions, as the monitoring of compliance with these conditions is the responsibility of the Australia Taxation Office.

This compliance audit included inspection of evidence provided by **XX** in response to an information request (refer to **Appendix 2** for detail) from the Foreign Investment Division, Treasury. The information request was developed with consideration given to the conditions imposed, the underlying intent of the conditions and the sources of evidence available.

Conclusion

With reference to the scope and methodology, the report finds that the applicant is **XX** with all in-scope conditions (refer to **Appendix 1** for compliance status definitions). Refer to the 'results' section of this report for further detail.

This compliance audit report is based on initial evidence provided by the applicant on **XX** and further information provided on **XX**.

| Condition | Finding |
|-----------|------------------------|
| 1.1 | Compliant with Caveats |
| 1.2 | Compliant |
| 2 | Partially Compliant |
| 3 | Non-compliant |
| 4 | N/A |
| N/A | Observation |

Background



Operating Framework

The *Foreign Acquisitions and Takeovers Act 1975* (the Act) and the *Foreign Acquisitions and Takeover Regulation 2015* provides the legislative basis for Australia's foreign investment regime. The legislation is supported by Australia's foreign investment policy, which outlines the approach to administering the legislation and the national interest considerations.

The legislative and policy framework allows the Treasurer to review foreign investment proposals that meet certain criteria and consider these proposals to ensure they are not contrary to the national interest. In making the decision, Treasurer may decide a proposal should not proceed, or may apply conditions, or seek undertakings, prior to approving a proposal. The Foreign Investment Division is responsible for the administration of the Act, as well as the compliance framework that supports it.



Compliance Audits

Compliance auditing¹, the assurance arm of the Foreign Investment Division's compliance framework, has been introduced to ensure compliance risks and issues are understood and that there is improved assurance that foreign investors are complying with the conditions imposed on their acquisitions.

The request for information for this audit was made pursuant to section 133 (1) and (2) of the Act. Section 133 (1) provides that the Treasurer may give notice to a person if the Treasurer believes that they can provide information or produce documents relating to matters that are relevant to the exercise of his or her powers under this Act. Non-compliance with s133 may include penalties.

Section 133 (3) provides that the Treasurer may, by notice in writing given to the person, require the person to give any such information or produce any such documents to the Treasurer or any other specified person acting on the Treasurer's behalf.



Context

Background and detail on the investor, acquired company and why it is relevant. Refer to national interest factors considered here etc

Results

The results of the compliance audit are documented below. For a full listing of the conditions imposed and the information requested, refer to **Appendix 2**. Details of the excluded conditions are provided at **Appendix 3**.

¹Compliance auditing is conducted in accordance with the 'Compliance Auditing Process'.

| Condition | Nature and source of evidence reviewed | Compliance Status ² | Comments |
|-------------------------|--|---------------------------------|--------------------------------|
| INSERT CONDITION | | | |
| 1.1 | Sub condition (if relevant) | | |
| | Overview of evidence provided by applicant | Insert conclusion status | Comments supporting conclusion |
| | | | |
| | - | | |

Observations

Insert any observations as required from audit undertaken

Appendix 1 – Compliance Status

The table below provides a description of the possible compliance status of each condition following assessment of the evidence provided by the applicants in response to the request for information.

| Result | Description |
|-------------------------------|---|
| Compliant | Sufficient appropriate evidence has been provided by the respondent to demonstrate compliance with a condition. |
| Compliant with caveats | <p>Compliance with the condition has been observed. However, the wording of the condition means:</p> <ul style="list-style-type: none"> - there is limited sources of appropriate evidence that can be provided by an applicant to evidence compliance; or - there is potential for misinterpretation of a condition; or - the controls implemented by the applicant, whilst technically in accordance with the condition, may not effectively address the underlying risk. <p>Further consideration of the condition, and possible variations, will need to be considered in the context of Treasury's foreign investment compliance risk appetite and tolerance.</p> |
| Partially compliant | <p>The compliance audit has concluded that the applicants are:</p> <ul style="list-style-type: none"> - compliant with some aspects of the conditions, but not all, where the condition has a number of elements; or - in the process of implementing controls to ensure compliance with the condition; or - technically not in compliance with the condition, but able to demonstrate controls which mitigate the underlying risk and / or intent of the condition. |
| Non-compliant | The applicants are unable to provide sufficient evidence to demonstrate compliance with the condition. |
| Observation | <p>Compliance with the condition has been observed. However, observations were made during the audit which may relate to:</p> <ul style="list-style-type: none"> - potential enhancements to processes, documents or systems to improve effectiveness of compliance outcomes; or - potential risks to ongoing or future compliance; or - the applicants engagement during the audit process. |
| N/A | Not applicable or unable to be assessed. |

Appendix 2 – Conditions and Information Request

Provided below are the information requests for the in-scope conditions. The information requests were developed with consideration given to the conditions imposed, the underlying intent and the sources of evidence available for all relevant acquisitions.

| INSERT CONDITIONS AND REQUEST FROM 133. | | | |
|---|-----|--|---------------------|
| Condition | | | Information Request |
| 1 | 1.1 | | - |
| | | | - |
| | 1.2 | | - |
| | 1.3 | | - |
| | | | - |
| | | | - |
| | | | - |
| | 1.4 | | - |
| 2 | | | - |

Appendix 3 – Excluded Conditions

INSERT ANY EXCLUDED CONDITIONS

Appendix 4 – Evidence Matrix

| Ref # | Evidence | Evidence Type | Evidence Date | Evidence Source | Date Received | Notes | Attachments | Applicable to Condition |
|-------|--|-----------------|---------------|-----------------|---------------|--|-------------|-------------------------|
| 1 | Description of Evidence - i.e. Email from, XX, Chief Financial Officer, to all staff setting out changes to Procurement Policy and attaching endorsed document | Email | 3/12/2018 | Applicant | 13/06/2019 | Notes on how evidence relates to compliance (or non-compliance) with conditions. i.e. email to all staff providing policy document. | Yes, #2 | 1 |
| 2 | Description of Evidence – i.e. Applicant procurement policy | Policy Document | 3/12/2018 | Applicant | 13/06/2019 | Notes on how evidence relates to compliance (or non-compliance) with conditions. i.e. document sets out requirement to be compliant with conditions. | No | 1 |