



## Doing Business in Australia: 2008 Country

### Commercial Guide for U.S. Companies

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### Openness to Foreign Investment

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The Australian Government welcomes foreign investment, and the United States is the country's largest source of foreign capital. Total U.S. investment in Australia, including both direct and portfolio investment, was USD 274 billion in 2006-07. This accounted for about 25 percent of total foreign investment in Australia. Australia's foreign investment policy, as laid out in its general investment guidelines, is: "to encourage foreign investment consistent with community interests. In recognition of the contribution that foreign investment has made and continues to make to the development of Australia, the general stance of policy is to welcome foreign investment. Foreign investment provides scope for higher rates of economic activity and employment than could be achieved from domestic levels of savings. Foreign direct investment also provides access to new technology, management skills and overseas markets."

Foreign-invested takeovers of domestic firms, while sometimes generating nationalistic public reaction, generally do not encounter interference and come under the same

guidelines as any other investment. There are no prohibitions on overseas investment or capital repatriation.

### **The Foreign Investment Review Board**

The Federal Department of the Treasury regulates foreign investment through the Foreign Investment Review Board (FIRB) whose secretariat sits within the Treasury. The Board screens investment proposals for conformity with Australian law and policy. Regulation of foreign investment is based on the Foreign Acquisitions and Takeovers Act, (FATA) 1975 and the Foreign Acquisitions and Takeovers Regulations 1989. A full statement of Australia's foreign investment policy is at: <http://www.firb.gov.au>

FIRB's investment screening mechanism tracks foreign investment developments through a notification system. Certain criteria can trigger examination of specific proposals. Under the Free Trade Agreement between the U.S. and Australia (AUSFTA), which entered into force on January 1, 2005, separate and more generous investment criteria and thresholds now apply to U.S. investors.

Under the AUSFTA, Australia has committed to further liberalization of its foreign investment regime, as it applies to U.S. investors, while preserving the main feature of that regime, namely, the ability to ensure that significant U.S. investment proposals are in the "national interest." The following changes to Australia's foreign investment policy were agreed under the AUSFTA:

- exemption from the FATA of acquisitions in financial sector companies, as defined by the Financial Sector (Shareholdings) Act 1998;
- introduction of a screening threshold of A\$800 million (indexed annually to the GDP implicit price deflator) of acquisitions in Australian businesses in non-sensitive sectors;
- introduction of a screening threshold of A\$50 million (indexed annually to the GDP implicit price deflator) of acquisitions in Australian businesses in defined sensitive sectors.

The sensitive sectors are:

- media;
- telecommunications;
- transport (including airports, port facilities, rail infrastructure, international and domestic aviation and shipping services provided either within, or to and from, Australia);
- the supply of training or human resources, or the manufacture or supply of military goods or equipment or technology, to the Australian Defense Force or other defense forces;
- the manufacture or supply of goods, equipment or technology able to be used for a military purpose;

- the development, manufacture or supply of, or the provision of services relating to, encryption and security technologies and communications systems; and
- the extraction of (or holding of rights to extract) uranium or plutonium or the operation of nuclear facilities;
- introduction of a minimum screening threshold of A\$50 million (indexed annually to the GDP implicit price deflator) for acquisitions by entities in which the United States Government has a prescribed interest;
- introduction of a screening threshold of A\$800 million (indexed annually to the GDP implicit price deflator) for acquisitions in non-residential developed commercial property (other than accommodation facilities); and - removal of existing policy-based screening requirements for the establishment of new Australian businesses other than where the investment involves the United States Government.

The FIRB must receive notification of investment proposals in the following categories (Note: (2007) A\$1= USD 0.8726):

- Acquisitions of substantial interests (15 percent by a single foreigner and 40 percent in aggregate) in existing Australian businesses, the value of whose assets exceeds A\$50 million or where the proposal values the business at over A\$50 million. For U.S. investors a notification threshold of A\$831 million instead applies, except for investments in prescribed sensitive sectors or by an entity controlled by the U.S. Government, which are subject to a A\$52 million threshold. The FATA does not apply to investments by U.S. investors in those financial sector entities that are subject to the operation of the Financial Sector (Shareholdings) Act 1998;
- plans to establish new businesses involving a total investment of over A\$10 million or more. Proposals by U.S. investors, except an entity controlled by a U.S. Government, do not require notification but remain subject to other relevant policy requirements;
- portfolio investments in the media of 5 percent or more, and all non-portfolio investments irrespective of size;
- takeovers of offshore companies whose Australian subsidiaries are valued at A\$50 million or more, or the applicable U.S. investor threshold of either A\$831 million or A\$52 million;
- direct investments by foreign governments or their agencies, irrespective of size;
- acquisitions of interests in urban land that involve:
  - developed, non-residential, commercial real estate, where the property is subject to heritage listing, valued at A\$5 million property is subject to heritage listing, valued at A\$5 million or more and the acquirer is not a U.S. investor;

- developed, non-residential, commercial real estate, where the property is not subject to heritage listing, valued at A\$52 million or more, or A\$831 million (indexed) for U.S. investors;
- accommodation facilities regardless of value;
- vacant urban real estate regardless of value;
- residential real estate regardless of value; and
- proposals where any doubt exists as to whether they are notifiable.

The FIRB uses a national interest test to examine foreign investment proposals. Proposals are evaluated according to their consistency with existing government policy and law, where these are taken to define important aspects of national interest (for example, competition policy and environmental laws). Also, national security interests and economic development priorities are considered. However, it is the Federal Treasurer, under the authority of the FATA, who ultimately decides whether or not an investment is contrary to the national interest.

Due to the recent change of Government in Australia, the 2006-07 FIRB annual report has not yet been released. The following data was reported in last year's Investment Climate Statement. During FY 2005 (in Australia from July 1 to June 30) 4,702 proposals for investment in Australia were considered by the FIRB: 4,360 were approved (3,233 with conditions), 55 rejected and 287 were withdrawn (the remainder were judged exempt). All but 64 of the conditional approvals were in the real estate sector, where 80 percent of all approvals were subject to conditions. These included conditions relating to the period during which development must commence (usually 12 months), requiring temporary residents to reside in and sell established dwellings when residency ceases, and the imposition of reporting requirements on advanced 'off-the-plan' approvals. For the majority of conditional approvals outside the real estate sector, the condition related to the period that the approval would stand, ordinarily 12 months.

The value of total approvals in FY 2005 was A\$119.5 billion, a 21 percent increase on the previous year's approvals of A\$99.1 billion. The value of total rejections was negligible. The U.S. remained one of the largest sources of proposed foreign investment in Australia during 2004-05, accounting for A\$37.2 billion or around 31 percent of the total. The U.S. has objected to the continued utilization of this screening mechanism with its relatively broad and non-specific national interest test.

The release of the 2006-07 FIRB annual report has been delayed, by possibly up to two more months, because of the recent Federal Election. The previous Treasurer delayed the draft annual report and now it is being re-written due to the passage of time.

### **Sector-specific regulation**

**Media:** The Australian Government passed long-awaited media reforms through Parliament late in 2006. The new media framework, which relaxes foreign and cross-media ownership restrictions, gradually took effect through 2007. The new framework removes the existing foreign ownership restrictions but retains the media industry as a sensitive sector under the Government's foreign investment policy. The legislation will

relax the current investment policy. The legislation will relax the current restrictions on cross-media ownership subject to safeguards that will ensure no less than five independent voices remain in metropolitan markets and four in regional markets. The new Labor Government has not indicated a radical change of direction in relation to media ownership policy.

**Civil Aviation:** Foreign investors (including foreign airlines) are subject to more stringent requirements than the standard limit of 49 percent of the equity in an Australian international airline. In the case of Qantas, existing statutory ownership restrictions imposed upon privatization (under the Qantas Sale Act 1992) are still in place. These limit total foreign ownership of Qantas to 49 percent, ownership by foreign airlines in aggregate to 35 percent, and ownership by an individual (including a foreign carrier) to 25 percent. Under existing bilateral aviation agreements, the limit of 49 percent in any Australian international carrier is based on the commercial risk that such a carrier's ownership structure could see it denied access to a foreign market. In relation to the domestic carrier market, foreign investors (including foreign airlines) can generally expect approval to acquire up to 100 percent of a domestic carrier (other than Qantas), or establish a new domestic aviation operation, unless this is contrary to the national interest.

**Airports:** Foreign investment proposals for acquisitions of interests in Australian airports are subject to examination in accordance with the standard notification requirements outlined above. In relation to the airports offered for sale by the Australian Government, the Airports Act of 1996 stipulates a 49 percent foreign ownership limit, a 5 percent airline ownership limit and cross ownership limits between Sydney airport (including Sydney West) and Melbourne, Brisbane and Perth airports apply.

**Telecommunications:** Prior approval is required for foreign entry into the telecommunications sector or for investment in existing businesses in the sector. In 2006, the Government sold down its majority shareholding (51.8 percent) in the leading telecommunications company Telstra to around 18 percent following a successful share offer. The remaining 18 percent shareholding has been transferred to the Future Fund (see paragraph below), a fund established since the Government achieving a net asset position in 2005-06. Aggregate foreign ownership of Telstra will remain restricted to 35 percent of the privatized equity and individual foreign investors restricted to a holding of no more than 5 percent of that privatized equity.

**Residential Real Estate:** Foreign persons wishing to acquire an interest in urban land require foreign investment approval (unless exempt under regulation). Proposals that require approval include acquisitions of:

- residential real estate;
- vacant land;
- developed commercial property valued at A\$50 million or more (for commercial heritage listed properties the threshold is A\$5 million);
- accommodation facilities (for example, hotels, guest houses);

- residential and commercial leases where the likely term of the lease is more than 5 years (the term should include any right or option to renew the lease);
- any profit sharing arrangement held over urban land (unless the asset subject to the profit sharing arrangement is developed commercial property valued at less than A\$50 million or heritage listed commercial property valued at less than \$5 million);
- shares in a company or units in a trust that holds more than half its total assets in urban land, except where the urban land owned would not normally require foreign investment approval (for example, developed commercial property with a value less than A\$50 million); or
- proposals where any doubt exists as to whether they are notifiable.

Proposals by foreign investors to acquire developed residential real estate are examined. They normally are not approved except in the cases of foreign companies buying residences for their senior executives living in Australia and foreign nationals temporarily executives living in Australia and foreign nationals temporarily resident in Australia for more than twelve months buying a principal residence for their own use, to be sold upon their departure. For more information on the FIRB, please visit its web site (<http://www.firb.gov.au/>).

### **Incentives for Investment**

Incentives that are available to investors include:

- Research and development tax concessions for companies incorporated in Australia;
- The Commercial Ready program, which offers competitive grants for early-stage commercialization activities, research and development with high commercial potential and proof of concept activities;
- The Pharmaceuticals Partnerships Program (P3) offers R&D incentive grants to established companies in the pharmaceutical sector. Grants consist of payment of 30 cents per dollar spent on eligible increased R&D activities in Australia above a base level of activity.
- Venture capital tax concessions. Capital gains tax exemptions are available for non-resident investment in Australian venture capital. The exemptions apply to investors from the U.S., the U.K., Japan, Germany, France and Canada.
- The Invest Australia Supported Skills (IASS) program is designed to encourage international firms to choose Australia as a location for foreign direct investment by providing streamlined immigration arrangements for eligible employees of an international company that is considering making a significant or strategic investment in Australia.

Hundreds of major foreign firms in most industry sectors invest in Australia. The Australian Federal and State Governments vigorously encourage investment by offering

incentives to multinationals to set up regional headquarters for financial and other services, and manufacturing operations. In fact, States often compete to secure an international firm's headquarters in its capital city. Aimed initially at attracting information technology companies, the campaign has widened in scope to include manufacturing and provision of financial and administrative services for the Asia-Pacific region. The Government touts the benefits of

Australia's safe, stable business environment, skilled workforce, and lower facility site and operating costs in comparison to other regional centers, such as Singapore, Hong Kong and Taiwan. For more information on investment incentives visit <http://www.ausindustry.gov.au/> and <http://www.investaustralia.gov.au/>.

## **Conversion and Transfer Policies**

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The Australian dollar is a fully convertible currency. The government does not maintain currency controls or limit remittance, loan and lease payments. Such payments are processed through standard commercial channels, without governmental interference or delay.

## **Expropriation and Compensation**

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Private property can be expropriated for public purposes in accordance with established principles of international law. Due process rights are established and respected, and prompt, adequate and effective compensation is paid.

## **Dispute Settlement**

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The Free Trade Agreement between the United States and Australia establishes a dispute settlement mechanism for disputes arising under the Agreement. In the first instance disputes are to be settled through consultation between the parties. Where these consultations are not effective in resolving the dispute, the Agreement provides for an arbitral panel to consider the matter. The dispute settlement mechanism provides for compensation for breaches of the agreement, which may include requiring the breach to be corrected, trade compensation to be provided, or monetary compensation in lieu of trade compensation. The Agreement does not allow private investors to directly challenge government decisions; however, individual investors are able to raise concerns about their treatment by the Australian Government with the United States Government (or vice versa).

Property and contractual rights are enforced through the Australian court system, which is based on English Common Law. There have been no investment disputes involving foreign companies in recent years. Australia is a member of the International Center for the Settlement of Investment Disputes.

Australia has an established legal and court system for the conduct or supervision of litigation and arbitration, as well as alternate dispute processes. The traditional approach to commercial dispute resolution involves litigation, arbitration and more modern methods of alternative dispute resolution. Australia is a world leader in the development

and provision of non-court dispute resolution mechanisms. It is a signatory to all the major international dispute resolution conventions and has organizations that provide international dispute resolution processes.

## Performance Requirements and Incentives

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### Selling to the Government

Australia has not signed the GATT/WTO Agreement on Government Procurement, which means that it is not bound by conditions prohibiting specification of locally-made product in tenders. However, the Australian Government procurement policy framework is non-discriminatory. That is, potential suppliers will not be discriminated against on the basis of their degree of foreign affiliation. The Free Trade Agreement with the United States prohibits the use of local preference arrangements and offsets, except in certain circumstances. Notable exceptions to the rule include preferences applying to local small to medium sized enterprises (SMEs). At the Federal level, there is a minimum target of 10 percent SME participation in all government procurements. Non-discriminatory treatment applies to most central government departments and 33 central government enterprises. A number of items, mainly relating to military equipment procurement by the Australian Department of Defence, have been exempted from the Agreement. A number of entities of regional governments are also subject to the Agreement.

The non-discrimination principle applies above certain thresholds. For central government procurement, the threshold is USD 64,000 (A\$81,800) for goods and services and USD 7,335,000 (A\$9,396,000) for construction services. For regional government entities, the threshold is USD 520,000 (A\$666,000) for goods and services and USD 7,335,000 (A\$9,396,000) for construction services.

### Special Arrangements for Information and Communications

Technology (ICT):

The Australian Government ICT procurement arrangements establish voluntary guidelines for ICT suppliers to government. The guidelines encourage government ICT suppliers to undertake strategic activities in Australia such as R&D, exports, technology transfer and alliances with local SMEs. For a contract less than A\$20 million, the only requirement for contractors and sub-contractors will be endorsement under the Endorsed Supplier Arrangement (see below). For contracts above A\$20 million, the Government will specify minimum SME participation rates determined by the nature of the contract, with a base level of SME participation of 10 per cent of hardware and 20 per cent of software and services. For the purposes of major ICT contracts, a SME is defined as a body corporate incorporated in Australia or New Zealand, which together with its related corporate and parent entities, has an average annual revenue over the last five financial years of less than A\$500 million. All publicly available business opportunities relating to the central government are notified on the AusTender website. Businesses can register their interest profile on the site and will receive automatic notification of the latest opportunities. Please visit the AusTender website for more information (<https://www.tenders.gov.au/federal/index.shtml>). For more information on the voluntary guidelines, please visit <http://www.dcita.gov.au/>

Under the Endorsed Supplier Arrangement (ESA), companies wishing to supply information technology (IT) products, major office machines (MOM), commercial office furniture and auctioneering services to the Australian Government must gain endorsement. For more information on ESA, please visit <http://www.esa.finance.gov.au/>.

## **Right to Private Ownership and Establishment**

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As a general rule, foreign firms establishing themselves in Australia are accorded national treatment. They do not have to seek government permission to establish and own businesses unless their proposed activity meets tests established in law and regulation that trigger notification/review by the FIRB. These FIRB requirements are a matter of public record and are available upon application to FIRB.

Firms may, if they wish, seek "naturalization" (conversion to full Australian status, as opposed to foreign status). To be naturalized, a firm must be at least 51 percent Australian-owned; its articles of association must provide that a majority of its board be Australian citizens; and it must reach an agreement with the Government regarding the exercise of voting powers in respect of the firm's business in Australia. The only practical advantage of naturalization is relief from the requirement that the FIRB be notified of proposed investment activities.

## **Protection of Property Rights**

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Australian law protects patents, trademarks, designs, copyrights and integrated circuit layout rights. Australia is a member of the World Intellectual Property Organization (WIPO), the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the Geneva Phonogram Convention, the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations, and the Patent Cooperation Treaty. In 2007, Australia became party to the WIPO Copyright Treaty 1996 (WCT) and the WIPO Performances and Phonograms Treaty 1996 (WPPT).

IP Australia is the Australian government agency responsible for registrations of patents, trademarks and designs. Contact details for IP Australia are: Tel: 61-2 6283-2999; designs. Contact details for IP Australia are: Tel: 61-2 6283-2999; Fax: 61-2 6283 7999; or <http://www.ipaustralia.gov.au/>. For copyright matters contact the Copyright Law Branch, Attorney General's Department at: Tel 61-2 6250-6313; Fax 61-2 6250-5929; or at <http://www.ag.gov.au/>.

### **Patents, Trade Secrets, Designs:**

Patents are available for inventions in all fields of technology and are the principal system for protecting ownership of any device, substance, method or process that is new or inventive. They are protected by the Patents Act of 1990, which offers coverage for 20 years, subject to renewal. An application for patent in Australia provides international priority rights if applications follow in overseas jurisdictions within 12 months.

In 2006, the Australian Parliament introduced new laws aimed at preventing unauthorized access to copyright-protected material. The legislation implements the

technological protection measures scheme in the Australia-United States Free Trade Agreement (AUSFTA). Technological protection measures (TPMs) are technical locks, such as passwords or encryption, used by copyright owners to prevent unauthorized access to and use of their material. These new laws complement other copyright reforms including new offenses to target piracy.

Under the United States - Australia Free Trade Agreement, the Australian government agreed to provide measures to prevent the marketing of a generic version of a pharmaceutical before the patent on that product expired. Australian regulations provide 5 years of protection of test data submitted to regulatory authorities for marketing approval of new pharmaceutical products and 10 years of protection to undisclosed data submitted with an application for marketing approval for a new agricultural product, when that approval is given in combination with the marketing approval of certain additional uses of the same product.

Design features, such as shape or pattern, can be protected from imitation by registration under the Designs Act of 1906 for up to 16 years. An important aspect of a design is that it must be applied industrially. Registration cannot be granted for a design that is purely artistic. Only the owner of the design can make an application for registration.

### **Trademarks**

Trademarks may be protected for ten years and renewed indefinitely, upon request by registration under the Trademarks Act of 1995. Once used, trademarks may also, without registration, be protected by common law; however registration with IP Australia does make enforcement easier. It is wise for any U.S. exporter intending to market a product in Australia to check with the Trademarks Office at IP Australia to ensure that its mark or name is not already in use.

### **Copyrights**

Copyrights are protected under the Copyright Act of 1968, which has been amended by the U.S. Free Trade Implementation Bill 2004 and the Copyright Amendment Act 2004 and Copyright Amendment Act 2006, to meet the obligations of the Australia-U.S. Free Trade Agreement. Works do not require registration, and copyrights automatically subsist in original literary, artistic, musical and dramatic works, film and sound recordings. Copyright protection is for the life of the author plus 70 years. For sound recordings and films, protection is 70 years after publication. The Australian Copyright Act provides protection and against video piracy and unauthorized third-country imports.

Amendments to the original Copyright Act of 1968 contained in the Copyright Amendment Act 2006 are related to: time-shifting, format-shifting and space-shifting; certain non-commercial activities of libraries, educational institutions and cultural institutions; use of copyright by people with a disability; parody and satire; the Copyright Tribunal; technological protection measures; unauthorized reception of encoded broadcasts and criminal penalties.

Australia subscribes to the 1976 declaration of the Organization for Economic Cooperation and Development (OECD) concerning international investment and multinational enterprises. The instruments cover national treatment and investment incentives and disincentives, and spell-out voluntary guidelines for the conduct of multinational enterprises in member countries. Australia also subscribes to two OECD codes of liberalization, one covering capital movements and the other invisible transactions.

Both Australian law and government practices foster transparency and favor competition. Taxation policy does not generally impede the efficient mobilization and allocation of investment, although there are a number of differences between the U.S. and Australian tax systems that have potential implications for business. Businesses are advised to seek counsel from accounting and law firms familiar with the tax policies of both countries.

In early 1990, the Australian Taxation Office and the Internal Revenue Service formalized a simultaneous audits agreement to investigate suspected non-compliance with tax laws of both countries. The U.S. - Australia Double Taxation Treaty affects business investment between the two countries. The Treaty, effective since 1983, applies to federal income tax of the U.S., excluding accumulated earnings tax, personal holding company tax and Australian income tax. Separate agreements apply to gift and estate taxes.

Australia and the United States concluded negotiations to revise the Treaty in September 2001. A key objective is to provide a competitive tax treaty for companies located in Australia by reducing the rate of dividend withholding tax on U.S. subsidiaries and branches of Australian companies. Another objective is to prevent double taxation of capital gains derived by U.S. residents from interests in Australian entities while retaining Australian taxation rights. The Controlled Foreign Corporation and Controlled Foreign Trusts legislation, effective July 1, 1991, provides for taxing income that accrues to corporations or trusts, arranged after residency is established.

## **Efficient Capital Markets and Portfolio Investment**

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Australia has a well-developed, deep and sophisticated financial market, regulated in accordance with international norms. The Australian stock exchange is the 8th largest in the world and the Australian dollar is the world's 5th most traded currency. The stock and commodities exchanges have corresponding arrangements with other world exchanges. Credit is allocated on market terms and several foreign banks operate successfully in Australia.

## **Political Violence**

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As in all liberal democracies, political protests (e.g., rallies, demonstrations, marches, public conflicts between competing interests) form an integral, though generally minor, part of Australian cultural life. Australian protests cover the broad range of current issues and interests: ethnic and aboriginal concerns, pro- and anti-right wing demonstrations, community and environmental issues and denunciations of government policies, to name a few. Such protests, while often vociferous, rarely degenerate into violence.

## **Corruption**

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Australia maintains a thorough system of laws and regulations designed to counter corruption. In addition, the government procurement system generally is transparent and well regulated, thereby minimizing opportunities for corrupt dealings. Accordingly, corruption has not been a factor cited by U.S. businesses as a disincentive to investing in Australia, or to exporting goods and services here. Non-governmental organizations interested in monitoring the global development or anti-corruption measures, including Transparency International, operate freely in Australia. Australia is perceived internationally as having low corruption levels, as demonstrated by Transparency International's Corruption Perception Index 2005, which ranked Australia ninth, ahead of the U.K., Canada and the U.S. in terms of nations perceived as having low levels of corruption.

Australia is an active participant in international efforts to end the bribery of foreign officials. Legislation to give effect to the anti-bribery convention stemming from the OECD 1996 Ministerial Commitment to Criminalize Transnational Bribery was passed in 1999. Legislation explicitly disallowing tax deductions for bribes of foreign officials was enacted in May 2000. At the federal level, enforcement of anti-corruption laws and regulations is the responsibility of the Attorney General's Department.

## **Bilateral Investment Agreements**

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Australia has signed Free Trade Agreements with the United States, Thailand and Singapore, all of which contain chapters on investment. See section A.1.a for details on U.S. specific investment arrangements. Australia also has a longstanding Free Trade Agreement with New Zealand called the CER (Closer Economic Relations). While this agreement does not contain a specific section on investment, both countries have undertaken significant liberalization of their investment regimes vis-a-vis the other party. Both countries agreed in early 2005 to investigate the possibility of adding an investment chapter to the agreement. While a monetary union with New Zealand is not currently on the table, there is a sense in academic and government circles in both countries that it is a viable option in the long-term. Australia is currently negotiating agreements with the United Arab Emirates, Malaysia, ASEAN China, and Japan.

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Australia provides foreign investment insurance to its firms investing abroad through the Export Finance and Insurance Corporation (EFIC). The U.S. Overseas Private Investment Corporation (OPIC) does not extend coverage to Australia, as it is not a high-risk or developing country.

## **Labor**

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Australia's unemployment rate stands at 4.4 percent, close to a 33-year record low. Australia is currently in its 17th year of uninterrupted economic expansion underpinned by best-practice economic management including a gradual but purposeful shift to more flexible labor market arrangements over the last 10 years. 2006 marked a further significant shift towards the goal of full labor market flexibility with the introduction of the Howard Government's Work Choices legislation. Work Choices was very unpopular,

however, and some employers consider it to be too complicated; the incoming Labor Government has committed to rolling back parts of this law.

In 2007, annual average weekly earnings in Australia grew by a sustainable 4.1 percent, above the core inflation rate of 3.0 percent. Real wages have grown by over 15 percent over the last 10 years reflecting generally above-average productivity growth. Currently and for the foreseeable future, localized skills shortages exist in the resource-rich States of Western Australia and Queensland largely in the mining and construction industries. The main economic challenge facing the Australian economy in 2008 is inflation and shortages of labor.

In terms of industrial unrest, by October 2007, strikes caused the loss of 79.6 working days per thousand employees, a decrease of fifty percent over the year to September 2006. The 151 industrial disputes during the year ended September 2007 were 105 fewer than in the previous year.

Other Federal laws set specific employment conditions. For instance, the Superannuation Guarantee (Administration) Act 1992 supplements Australia's pension system. This compulsory, defined-contribution pension fund differs significantly from the U.S. Social Security system since it is privately run, and firms and their employees choose which investment company or companies will administer the funds. From July 1, 2002, employers were required by law to contribute a minimum of nine percent of each employee's base salary into that employee's superannuation account and employees can choose to make additional contributions. For more information on superannuation, see (<http://www.ato.gov.au/super/default.asp>.)

In 2001, the government established the General Employees Entitlements Redundancy Scheme (GEERS), a taxpayer-funded insurance scheme, in response to growing community concerns about the loss of employee entitlements after several companies collapsed. Employees currently stand ahead of unsecured creditors, but behind lenders with fixed security in the creditors' queue following a company collapse.

The Australian Government is nominally a party to all International Labor Organization (ILO) conventions. The Government does not regard ratification of ILO conventions as a high priority.

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The Commonwealth Government introduced the "Manufacturing-in-Bond" (MIB) scheme in 1997. This allows export manufacturers to import components and materials free from up-front customs, excise and sales tax charges, provided the goods produced are subsequently exported. Goods become subject to duties and taxes if removed for sale or use in Australia.

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### **Levels of investment**

The level of foreign investment in Australia increased by A\$225.0 billion in 2006 to reach A\$1.44 trillion at 31 December 2006. Portfolio investment accounted for A\$730.5 billion (60 percent), direct investment for A\$281.1 (23 percent), other investment liabilities for

A\$160.4 billion (13 percent) and financial derivatives for A\$38.0 billion (3 percent). Of the portfolio investment liabilities, debt securities accounted for A\$491.4 billion (67 percent) and equity securities for A\$239.1 billion (33 percent). The leading investor countries at 31 December 2006 were as follows.

<b>Country</b>	<b>Level of investment</b>	<b>Level of investment</b>	<b>Total investment</b>
	<b>A\$billions</b>	<b>USDOL billions</b>	
United States	362.8	274.8	25
United Kingdom	352.7	267.1	24
Japan	51.0	38.6	4
Hong Kong SAR	38.5	29.2	3
Switzerland	35.3	26.7	3
Netherlands	26.8	20.3	2
Belgium and Lux	24.5	18.6	2

The level of Australian investment abroad reached A\$835.569 billion at 31 July 2007, an increase of 151 billion on the previous year. Direct investment abroad accounted for A\$287.5 billion (34 percent), portfolio investment for A\$315.6 billion (38 percent), other investment for A\$110.9 billion (13 percent), reserve assets for A\$69.6 billion (8 percent) and financial derivatives for A\$52.0 billion (6 percent). Equity has been the main form of Australian investment abroad during the past decade. At A\$483.8 billion, equity represented 58 percent of the total level of investment at 31 July 2007. The leading destination countries as at 31 July 2007 were as follows.

<b>Country</b>	<b>Level of investment</b>	<b>Level of investment</b>	<b>Percentage of total investment</b>
	<b>A\$billions</b>	<b>USDOL billions</b>	
United States	320.8	253.7	38.4
United Kingdom	133.3	105.4	16.0
New Zealand	62.3	49.3	7.8
Japan	39.8	31.5	4.8

Netherlands	31.2	24.7	3.7
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## Flows of investment

### Inflows

Foreign investment in Australia recorded a net inflow of A\$68.6 billion for the year ended 31 December 2006, an increase of A\$13.0 billion over the previous year. The leading investor countries were the United States (A\$15.5 billion or 23 percent), the United Kingdom (A\$11.3 billion or 16 percent), Switzerland (A\$3.9 billion or 6 percent), Hong Kong (A\$1.5 billion or 2 percent) and Germany (A\$1.4 billion or 2 percent).

### Outflows

Australian investment abroad recorded a net outflow of A\$27.6 billion for the year ended 31 December 2006, an increase of A\$7.3 billion. The leading destination countries were the United States (A\$11.9 billion or 43 percent), New Zealand (A\$3.9 billion or 14 percent), and the United Kingdom (A\$2.5 billion or 9 percent).

## Web Resources

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AusTender: <https://www.tenders.gov.au/federal/index.shtml>

Australian Taxation Office – Superannuation: <http://www.ato.gov.au/super/default.asp>

Copyright Law Branch, Attorney-General's Department: <http://www.ag.gov.au/>

Endorsed Supplier Arrangement: <http://www.esa.finance.gov.au/>

Foreign Investment Review Board: <http://www.firb.gov.au>

Investment Incentives: <http://www.ausindustry.gov.au/>

Investment Incentives: <http://www.investaustralia.gov.au/>

IP Australia: <http://www.ipaustralia.gov.au/>

Voluntary guidelines: <http://www.dcita.gov.au>