

FOREIGN INVESTMENT SECURITY BRIEFING

FIRB, FOCI and Foreign Investment Security Conditions

When Australia approves foreign investment, approval increasingly comes with security conditions the investor must meet, and prove, for years afterward. The same foreign-influence question drives FOCI obligations across defence and government. This is what those conditions ask, and how independent assurance is provided.

WHERE SECURITY CONDITIONS APPLY

The assets in scope

- Critical infrastructure and SOCI-regulated assets
- Businesses holding sensitive data on Australians
- Defence-adjacent, technology and minerals assets

What conditions require

- Onshore storage of Australian data
- Access controls and governance over systems
- Reporting and independent assurance to the regulator

Two points to act

- Before approval: a credible security and data plan
- After approval: an independent compliance audit
- Ongoing: recurring assurance on the required cycle

WHO SETS AND CHECKS THE CONDITIONS

FIRB / Treasury

Attaches conditions to approvals and monitors compliance.

ASIO

Assesses the espionage and foreign-interference threat.

Home Affairs

Administers the PSPF and the SOCI critical-infrastructure regime.

Defence

Requires DISP members to manage and report FOCI.

The investor

Carries the standing obligation to comply and demonstrate it.

BY THE NUMBERS

2021

National-security screening added to the foreign-investment regime, from 1 January 2021.

\$0

Monetary threshold for a notifiable national security action; value alone does not exempt it.

10%

Direct interest in a national-security business that can make an action notifiable.

300+

Security and risk projects Agilient has delivered across defence, infrastructure and government.

WHAT INVESTORS SHOULD DO

- ✓ **Map the exposure.** Identify the data, critical systems and access a foreign interest could reach.
- ✓ **Benchmark to a framework.** PSPF, the ISM, the SOCI risk program and ISO/IEC 27001.
- ✓ **Keep evidence.** Records and reporting a regulator can test.

- ✓ **Build the plan early.** A credible plan at application stage shapes proportionate conditions.
- ✓ **Control access.** Onshore storage, limits on offshore and upstream access.
- ✓ **Get independent assurance.** An assessor with no stake in the systems reviewed.

A condition that calls for an independent assessment is only as strong as the independence behind it.

agilient.com.au

SECURITY RISK · AUDIT · FIRB & FOCI COMPLIANCE