Report 477: Commonwealth Financial Statements - Second Report, and Foreign Investment in Real Estate

Inquiries based on Auditor-General’s Reports 24 and 48 (2017-18)

Joint Committee of Public Accounts and Audit
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List of Recommendations

Recommendation 1

2.9 The Committee recommends that:

- the Northern Land Council report back to the Committee on progress in responding to the two significant legislative breaches reported by the Australian National Audit Office (ANAO) in Audit Report No. 24 (2017-18)

- should the ANAO audit of the financial statements of the Council for the period ended 30 June 2018 result in any significant legislative breaches being reported, whether new or unresolved from 2016-17, the Council promptly report back to the Committee on progress in responding to such findings

Recommendation 2

2.13 The Committee recommends that should the Australian National Audit Office audit of the financial statements of the National Disability Insurance Agency (NDIA) for the period ended 30 June 2018 result in any significant or moderate audit findings, whether new or unresolved from 2016-17, the NDIA promptly report back to the Committee on progress in responding to such findings.
Recommendation 3

2.17 The Committee recommends that:

- should the Australian National Audit Office (ANAO) audits of the financial statements of the Australian Federal Police, the Department of Defence, the Director of National Parks and the Department of Home Affairs for the period ended 30 June 2018 result in any significant or moderate audit findings, whether new or unresolved from 2016-17, these entities promptly report back to the Committee on progress in responding to such findings.

- in reporting back to the Committee on progress in addressing any significant or moderate audit findings in the ANAO category of IT control environment, entities should also outline:
  - what assurance for IT controls is undertaken by the entity’s audit committee
  - what plans have been established to continuously monitor IT controls, to prevent reoccurrence of such issues in future years

Recommendation 4

2.23 The Committee recommends that the Department of Finance report back to the Committee on ways to further promote public transparency across budget and financial reporting documentation regarding alternative financing mechanisms.
Recommendation 5

2.24 The Committee recommends that the Australian National Audit Office consider:

- undertaking an audit of one complete Commonwealth financial reporting cycle (for one or more Commonwealth entities), focused on clarity of terminology and a clear read of financial information (line of sight) across aggregated and disaggregated financial reporting documentation (budget papers, Portfolio Budget Statements, annual reports and financial statements)—including ease of tracking financial reporting information over time
- reporting in greater detail on alternative financing mechanisms—such as equity investment, concessional loans and contingent liabilities—in its Key Audit Matter reporting for financial statement audits, to further promote public transparency in this area

Recommendation 6

2.25 The Committee recommends that the Parliamentary Budget Office consider undertaking further research into promoting public transparency and understanding of budget and financial reporting documentation, and ways to improve line of sight and tracking of aggregated and disaggregated financial information across such documentation, including over forward years.

Recommendation 7

2.28 The Committee recommends that the Australian National Audit Office consider reporting back to the Committee on how the rollout of digitised annual reports by the Department of Finance might assist in the development of performance targets or benchmarks to enable Commonwealth entities to assess their own financial sustainability against agreed parameters over time and against like entities.

Recommendation 8

3.14 The Committee recommends that the Australian Taxation Office report back to the Committee on its progress in implementing the recommendations from the Auditor-General’s Report No. 48 (2017-18), complete with timeframes, planned deliverables and outcomes observed to date.
Recommendation 9

3.18 The Committee recommends that, in a future review of the *Foreign Acquisitions and Takeovers Act 1975* (Cth), the Department of Treasury investigate the possibility of including a positive obligation on the intermediary community to report to the Australian Taxation Office, clients who they suspect are in breach of their obligations to report or apply to the Foreign Investment Review Board for approval to purchase property.

Recommendation 10

3.24 The Committee recommends that the Australian Taxation Office prioritise and improve processes around:

- the collection and analysis of data around the geographic location of breaches

- the creation of data matching rules in order to determine if there are foreign purchasers using beneficial ownership in order to avoid their obligations under the foreign investment in residential real estate regime as recommended by the Australian National Audit Office

- the application of civil and criminal penalties applied under the same regime

And report back to the Committee on its progress on these matters by the end of October 2019.
1. Executive Summary

1.1 The Joint Committee of Public Accounts and Audit (JCPAA) is the Parliament’s joint public administration committee. The Committee scrutinises the governance, performance and accountability of Commonwealth agencies, and has the power to inquire into all expenditure of Commonwealth money.

1.2 This report covers two Committee inquiries, based on two audit reports:

- Foreign Investment Obligations in Residential Real Estate, based on Audit Report No. 48 (2017-18), *Managing Compliance with Foreign Investment Obligations for Residential Real Estate*—see Chapter 3

1.3 The terms of reference for the Committee’s second inquiry in Commonwealth Financial Statements had a particular focus on the following matters raised in Audit Report No. 24:

- equity investment, concessional loans and contingent liabilities, and the applicable budget, accounting and valuation rules
- significant and moderate findings for the National Disability Insurance Agency (NDIA)
- management of IT controls

1.4 The Auditor-General’s financial statement audits play a critical role in ensuring accountability to the Parliament and the Australian public for the expenditure of public funds. The audits provide independent assurance that this information is accurate and that the financial management of Commonwealth entities is effective. Audit Report No. 24 provides the
results of the final audits of the Consolidated Financial Statements (CFS) and the financial statements of all Commonwealth entities.

1.5 The Committee’s recommendations included that:

- the Northern Land Council report back on progress in responding to the two significant legislative breaches reported in Audit Report No. 24 (2017-18)
- should the Australian National Audit Office (ANAO) audit of the NDIA financial statements for the period ended 30 June 2018 result in any significant or moderate audit findings, the NDIA report back on progress in responding to such findings
- should the ANAO audits of the financial statements of the Australian Federal Police, the Department of Defence, the Director of National Parks and the Department of Home Affairs for the period ended 30 June 2018 result in any significant or moderate audit findings, these entities report back on progress in responding to such findings
- in reporting back on progress in addressing any IT related significant or moderate audit findings, entities should outline what assurance for IT controls is undertaken by the entity’s audit committee
- the Department of Finance (Finance) report back on ways to further promote public transparency across budget and financial reporting documentation regarding alternative financing mechanisms
- the ANAO consider: undertaking an audit of one complete Commonwealth financial reporting cycle (for one or more Commonwealth entities), focused on a clear read of financial information across aggregated and disaggregated financial reporting documentation; and reporting in greater detail on alternative financing mechanisms in its Key Audit Matter reporting
- the Parliamentary Budget Office consider undertaking further research into promoting public transparency of budget and financial reporting documentation, and ways to improve tracking of aggregated and disaggregated financial information across such documentation
- the ANAO consider reporting back on how the rollout of digitised annual reports by Finance might assist in the development of performance targets or benchmarks to enable Commonwealth entities to assess their own financial sustainability against agreed parameters over time

1.6 In its inquiry into Foreign Investment Obligations in Residential Real Estate, based on Audit Report No. 48, the Committee examined the effectiveness of the Australian Taxation Office’s and Department of the Treasury’s
implementation of changes to responsibility for the enforcement of the
*Foreign Acquisitions and Takeovers Act 1975* (Cth) and associated regulations,
as well as their management of compliance with this regime.

1.7 The Committee’s recommendations included that:

- the Australian Taxation Office report back to the Committee on its progress in implementing Audit Report No. 48 recommendations
- in a future review of the *Foreign Acquisitions and Takeovers Act 1975* (Cth), the Department of Treasury consider including positive obligations on the intermediary community to report clients they suspect are in breach of the Act
- the Australian Taxation Office prioritise and improve its processes around data analysis of the geographic location of breaches, data matching rules regarding beneficial ownership of property, and the application of civil and criminal penalties for breaches of the Act
2. Commonwealth Financial Statements

2.1 The Auditor-General publishes two reports annually to provide the Parliament with an independent examination of the financial accounting and reporting of Commonwealth entities. For the 2016-17 financial year, this comprised:

- Audit Report No. 60 (2016-17), *Interim Report on Key Financial Controls of Major Entities*, which focused on results of the interim audit phases of major Commonwealth entities, including an assessment of key internal controls
- Audit Report No. 24 (2017-18), *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2017*, which provided results of the final audits of the financial statements of all Commonwealth entities and the Consolidated Financial Statements

2.2 The Joint Committee of Public Accounts and Audit (JCPAA) inquiry into the Commonwealth financial statements was based on Audit Report No. 24 (2017-18), *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2017*.

2.3 Reflecting the terms of reference adopted by the Committee for its inquiry (see Appendix A), this report focused on the following five matters regarding the evidence provided:

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1 Given the cyclical nature of the financial statements audits, the Committee’s report also makes reference to the interim audit for the 2016-17 financial year, Audit Report No. 60, and the interim audit for the 2017-18 financial year, Audit Report No. 47 (2017-18), *Interim Report on Key Financial Controls of Major Entities*. (The audits of the financial statements of Australian Government entities for the period ended 30 June 2018 did not form part of the inquiry.)
Consolidated Financial Statements: audit findings
Financial statements: audit findings by portfolio
– National Disability Insurance Agency
Financial statements: audit findings by category
– IT control environment
Equity investment, concessional loans and contingent liabilities: budget, accounting and valuation rules
Other audit matters

2.4 Chapter 2 comprises:
– Committee conclusions and recommendations
– Review of evidence

Committee conclusions and recommendations

Consolidated Financial Statements: audit findings

2.5 The Australian National Audit Office (ANAO) audits of the financial statements play a critical role in ensuring accountability to the Parliament and the Australian public for the expenditure of public funds. The Committee notes that the 2016-17 CFS was prepared in accordance with the Public Governance, Performance and Accountability Act 2013 (PGPA Act) and the requirements of the Australian Accounting Standards.² The 2016-17 CFS was signed by the Minister for Finance on 27 November 2017, and an unmodified auditor’s report was issued on the same day.³

Financial statements: audit findings by portfolio

2.6 The Committee notes that the Auditor-General issued auditor’s reports on the 2016-17 financial statements of 233 Commonwealth entities, up until 30 November 2017. All auditors’ reports were unmodified.⁴

2.7 The Committee also notes that 222 findings were reported to entities as a result of these financial statement audits, comprising two significant, 20 moderate and 200 minor findings.⁵ The Committee makes recommendations about these matters below.

2.8 During 2016-17, the ANAO reported two significant legislative breaches to the Northern Land Council (NLC). The Committee has previously made a recommendation about NLC legislative breaches,\(^6\) and again makes a recommendation on this matter.

**Recommendation 1**

2.9 The Committee recommends that:

- the Northern Land Council report back to the Committee on progress in responding to the two significant legislative breaches reported by the Australian National Audit Office (ANAO) in Audit Report No. 24 (2017-18)

- should the ANAO audit of the financial statements of the Council for the period ended 30 June 2018 result in any significant legislative breaches being reported, whether new or unresolved from 2016-17, the Council promptly report back to the Committee on progress in responding to such findings

**National Disability Insurance Agency**

2.10 The Committee notes that, in Audit Report No. 24 (2017-18), the National Disability Insurance Agency (NDIA) had two significant audit findings and five moderate audit findings.

2.11 The Committee therefore welcomed progress made by the NDIA, as set out in Audit Report No. 47 (2017-18), in resolving these significant audit findings. One significant finding on IT user access management was resolved and the other significant finding on the business assurance compliance program was downgraded to a moderate audit finding.\(^7\) The Committee notes that, in its submission to the inquiry, the NDIA provided an update on progress undertaken to resolve this moderate audit finding.\(^8\)

2.12 The Committee also notes progress made by the NDIA in addressing the moderate audit findings, with one of these findings having been downgraded to a minor audit finding in Audit Report No. 47 (2017-18). In its submission, the NDIA noted that the moderate findings ‘all have action

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\(^7\) ANAO Report No. 47 (2017-18), pp. 181-182.

\(^8\) NDIA, Submission 1, pp 3-4.
underway to address the identified risks’, and that ‘the NDIA is committed to these actions to address the outstanding findings’. The Committee will continue to closely monitor the NDIA’s progress in addressing these audit findings and makes a recommendation on this matter.

Recommendation 2

2.13 The Committee recommends that should the Australian National Audit Office audit of the financial statements of the National Disability Insurance Agency (NDIA) for the period ended 30 June 2018 result in any significant or moderate audit findings, whether new or unresolved from 2016-17, the NDIA promptly report back to the Committee on progress in responding to such findings.

Financial statements: audit findings by category

2.14 The Committee’s inquiry particularly focused on the ANAO’s audit findings in the category of IT control environment, which had the highest number of findings: one significant, 10 moderate and 73 minor. IT systems are an integral part of a Commonwealth entity’s control environment supporting the preparation of financial statements. The Committee notes that most common area requiring action by entities was in the management of user access and monitoring of privileged users.

2.15 In terms of the ANAO’s 20 moderate audit findings across all categories, the Committee focused on entities with multiple moderate audit findings, particularly in the category of IT control environment. These entities were:

- Australian Federal Police—three moderate findings in the category of IT control environment
- Department of Defence—two moderate findings, including one in the category of IT control environment
- Director of National Parks—two moderate findings
- Department of Home Affairs—two moderate findings, including one in the category of IT control environment
- NDIA—five moderate findings, including three in the category of IT control environment

2.16 The Committee will continue to monitor entity progress in addressing these moderate audit findings, particularly in the category of IT control environment. The Committee emphasises that the IT control environment is

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9 NDIA, Submission 1, pp. 5-6.
an area requiring constant monitoring over time, due to recurring issues associated with managing user access. The Committee recognises that Commonwealth entities have overarching responsibility for their IT controls, with their audit committee having an important assurance role. The Department of Finance (Finance) also pointed to its support role in this area, including encouraging information sharing between entities on better practice. Finance further noted that shared services between entities may assist with standardisation of processes in the IT control environment, addressing some of the identified risks.

Recommendation 3

2.17 The Committee recommends that:

- should the Australian National Audit Office (ANAO) audits of the financial statements of the Australian Federal Police, the Department of Defence, the Director of National Parks and the Department of Home Affairs for the period ended 30 June 2018 result in any significant or moderate audit findings, whether new or unresolved from 2016-17, these entities promptly report back to the Committee on progress in responding to such findings

- in reporting back to the Committee on progress in addressing any significant or moderate audit findings in the ANAO category of IT control environment, entities should also outline:
  - what assurance for IT controls is undertaken by the entity’s audit committee
  - what plans have been established to continuously monitor IT controls, to prevent reoccurrence of such issues in future years

Equity investment, concessional loans and contingent liabilities: budget, accounting and valuation rules

2.18 The Committee terms of reference for the Commonwealth financial statements identified, as a particular focus, the budget, accounting and valuation rules for equity investment, concessional loans and contingent liabilities. Finance provided a detailed submission to the Committee setting out further information on these matters.\textsuperscript{10} Finance had also recently

\textsuperscript{10} See Finance, Submission 2.
published a series of Advice Papers on *General Principles for Recognition of Expenditure in Budget Aggregates* (July 2018); *Q&A—Concessional Loans* (August 2018); and *Q&A—Equity Investments* (August 2018).

2.19 The Committee notes that all financial statements prepared by the Government, including those for the Budget, must comply with Australian Accounting Standards (AAS) and Government Financial Statistics (GFS) standards, which are prescribed in legislation and set independently of the Government. The Committee further notes that the Auditor-General examines compliance with AAS standards as part of the financial statement audits.

2.20 The Committee was interested to understand more about the research then being conducted by the Parliamentary Budget Office (PBO) on equity investment, concessional loans and contingent liabilities. The PBO outlined that one of the elements of its research program is to ‘undertake an examination of the accounting and budget impact of alternative financing mechanisms that are being used’, with the aim of publishing a report on this matter in 2019.\(^{11}\) Work in this area ‘links back to the PBO’s mandate to improve transparency around budget issues and to assist the parliament in making informed decisions about policy proposals and pieces of legislation that come before the parliament’.\(^{12}\) The Committee will be interested in monitoring the outcomes of this research and will seek a briefing by the PBO on this research following its release.

2.21 The Committee acknowledges the PBO’s work in publishing research that promotes public transparency and understanding of budget and fiscal policy settings. The Committee suggests there may be merit in the PBO considering further research on ways to promote public transparency around budget and financial reporting—including a clear read (line of sight) across budget and financial reporting documentation. Finance and the ANAO might also consider undertaking further work in this area—for example, the Committee notes that the ANAO has adopted Key Audit Matter reporting in its financial statements audits, including on alternative financing mechanisms.

2.22 The Committee notes the integrity of Commonwealth budget and accounting rules and auditing practices and, in its recommendations, instead

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\(^{11}\) Ms Jenny Wilkinson, Parliamentary Budget Officer, PBO, *Committee Hansard*, Canberra, 17 October 2018, p. 1. (The PBO’s report was published as the Committee’s report was finalised.)

focuses on further promoting public transparency in terms of budget and financial reporting.

**Recommendation 4**

2.23 The Committee recommends that the Department of Finance report back to the Committee on ways to further promote public transparency across budget and financial reporting documentation regarding alternative financing mechanisms.

**Recommendation 5**

2.24 The Committee recommends that the Australian National Audit Office consider:

- undertaking an audit of one complete Commonwealth financial reporting cycle (for one or more Commonwealth entities), focused on clarity of terminology and a clear read of financial information (line of sight) across aggregated and disaggregated financial reporting documentation (budget papers, Portfolio Budget Statements, annual reports and financial statements)—including ease of tracking financial reporting information over time

- reporting in greater detail on alternative financing mechanisms—such as equity investment, concessional loans and contingent liabilities—in its Key Audit Matter reporting for financial statement audits, to further promote public transparency in this area

**Recommendation 6**

2.25 The Committee recommends that the Parliamentary Budget Office consider undertaking further research into promoting public transparency and understanding of budget and financial reporting documentation, and ways to improve line of sight and tracking of aggregated and disaggregated financial information across such documentation, including over forward years.

**Other audit matters**

2.26 Audited financial statements are included in a Commonwealth entity’s annual report. Annual reports form a critical component of the Commonwealth performance cycle in providing accountability to the
Parliament and the public about entity performance. The Committee emphasises that timeliness of financial reporting, which in turn ensures timely tabling of annual reports in the Parliament, is therefore crucial in enabling scrutiny of annual reports at Senate Estimates and also for future technological developments in digital tabling. The Committee welcomes the ANAO’s continued monitoring of this matter.

2.27 The Committee notes the Auditor-General’s view that there would be ‘benefit in the Government developing performance targets or benchmarks to enable entities to assess their own financial sustainability against agreed parameters over time and against like entities’. The Committee has previously made a recommendation supporting this initiative. In responding to this recommendation, Finance stated that financial sustainability performance metrics ‘could be released as part of the rollout of digitised 2018-19 Annual Reports’.

Recommendation 7

2.28 The Committee recommends that the Australian National Audit Office consider reporting back to the Committee on how the rollout of digitised annual reports by the Department of Finance might assist in the development of performance targets or benchmarks to enable Commonwealth entities to assess their own financial sustainability against agreed parameters over time and against like entities.

2.29 The Committee notes that, of the 157 Commonwealth entities requested to provide additional information on their websites relating to senior executive remuneration (starting from the 2016-17 reporting year, by 31 July 2017), as at 31 October 2017, 134 entities had published the information (with some 50 per cent having published this information in accordance with the requested timeframe of 31 July) and 23 entities had not.

2.30 In JCPAA Report 463: Commonwealth Financial Statements, the Committee made a number of recommendations to reinstate disclosure of executive remuneration reporting by Commonwealth entities, including Government

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13 Mr Grant Hehir, Auditor-General, ANAO, ‘Opening statement’, Submission 3, p. 4.
2.31 The recent report of the *Independent Review into the Operation of the PGPA Act and Rule* also made recommendations on this matter, having noted that ‘current arrangements for reporting executive remuneration across Commonwealth entities do not provide sufficient transparency and accountability for the use of public resources for this purpose’.

2.32 The Committee awaits the Government response to the recommendations of the report of the *Independent Review into the Operation of the PGPA Act and Rule*, and to the relevant recommendations of JCPAA Report 463. The Committee will continue to monitor this area with interest, and welcomes the ANAO’s continued monitoring of this matter.

**Review of evidence**

**Consolidated Financial Statements: audit findings**

2.33 Government accountability and transparency is supported by the preparation and audit of the CFS. The CFS presents the consolidated whole-of-government financial results, inclusive of all Australian Government controlled entities, as well as the General Government Sector financial statements.

2.34 The 2016-17 CFS was prepared in accordance with section 48 of the PGPA Act and the requirements of the Australian Accounting Standards, including Australian Accounting Standards Board (AASB) 1049, *Whole of Government and General Government Sector Financial Reporting*.

2.35 There were no significant or moderate audit findings arising from the 2016-17 financial statements audits of the CFS. The 2016-17 CFS was signed by the Minister for Finance on 27 November 2017 and an unmodified auditor’s report was issued on the same day.
Financial statements: audit findings by portfolio

2.36 The Auditor-General issued auditor’s reports on the 2016-17 financial statements of 233 Commonwealth entities, up until 30 November 2017. All auditors’ reports were unmodified.

2.37 A total of 222 findings were reported to entities as a result of these financial statement audits, comprising:
- two significant—National Disability Insurance Agency (NDIA)
- 20 moderate—including NDIA with five moderate findings
- 200 minor

2.38 The significant and moderate audit findings for NDIA are discussed below, as this was a particular focus of the Committee’s terms of reference for the inquiry.

2.39 Other entities with multiple moderate audit findings included:
- Australian Federal Police—three audit findings, discussed in the section below on IT control environment
- Department of Defence—two audit findings (one of these audit findings is discussed in the section below on IT control environment)
  - Completeness and accuracy of Specialist Military Equipment (SME) data to support the fixed asset register—Audit Report No. 47 (2017-18) provided an update on Defence’s progress in addressing this audit finding, as follows: ‘Defence issued revised instructions to business units to strengthen the impairment assurance process. Defence is

Government’s operating result, net worth, government securities, superannuation liabilities and concessional loans—see pp. 12-22.


24 Other moderate findings included: Australian Federal Police (3); Department of Defence (2); Director of National Parks (2); Department of Immigration and Border Protection (2); and six agencies with one finding each—see ANAO Report No. 24 (2017-18) for further details about these audit findings.

25 ANAO Report No. 24 (2017-18), p. 10. (For a list of significant and moderate audit findings for 30 June 2017 and 30 June 2016 by all portfolios and entities, see ANAO Report No. 24 (2017-18), Table 4.0.1, pp. 55-56.)

implementing the revised assurance process … [and] a new business process to validate the Key Defence Asset Register.\footnote{ANAO Report No. 47 (2017-18), pp. 86-87.}

\begin{itemize}
\item Director of National Parks (DNP)—two audit findings
  \begin{itemize}
  \item Identification, valuation and classification of assets—the ANAO noted DNP advice that the ‘asset management process continues to be identified as a priority in the Corporate Plan’.\footnote{ANAO Report No. 24 (2017-18), p. 156.}
  \item Financial statement quality control and preparation process—the ANAO noted DNP advice that ‘it is implementing procedures to address this issue in 2017-18’.\footnote{ANAO Report No. 24 (2017-18), p. 157.}
  \end{itemize}
\item Department of Immigration and Border Protection—two audit findings (one of these audit findings is discussed in the section below on IT control environment)
  \begin{itemize}
  \item Fraud and integrity reporting\footnote{ANAO Report No. 24 (2017-18), p. 202.}—Audit Report No. 47 (2017-18) provided an update on the department’s progress in addressing this audit finding, including ‘identification and analysis of the types of activities that may constitute fraud in the department’s context’; ‘development of a report that details fraud instances and related analysis’; and ‘development of standard operating procedures for compiling the fraud report’.\footnote{ANAO Report No. 47 (2017-18), p. 136.}
  \end{itemize}
\end{itemize}

\section{2.40} During 2016-17, the ANAO also reported two significant legislative breaches to the Northern Land Council (NLC) and one to the Corporations and Markets Advisory Committee.\footnote{ANAO Report No. 24 (2017-18), p. 37. (For details on the CMAC legislative breach, see ANAO Report No. 24, pp. 291-292.)}

\section{2.41} The first significant legislative breach involved instances of NLC ‘non-compliance’ with the \textit{Aboriginal Land Rights (Northern Territory) Act 1976}, as ‘not all of the funds in the Council’s royalty trust account had been distributed to traditional owners, within the agreed timeframe’.\footnote{ANAO Report No. 24 (2017-18), p. 247.} By way of addressing this matter, the ANAO noted that the NLC had commenced a royalty reform project ‘aimed at reducing incidents of non-compliance’ with
the Act and ‘reconciling the outstanding balances in the royalty trust account to identify the appropriate owners for distribution’. 34

2.42 The second significant legislative breach concerned the need for NLC to establish a risk management framework.35 The ANAO noted that, at the time of the final audit, the NLC was preparing to undertake workshops to develop a risk register, to support ‘finalisation of the risk plan’ by the end of 2017.36

2.43 At the public hearings for the Committee’s inquiry, Finance was asked what actions it had taken to drive change at the NLC with regard to these legislative breaches. Finance responded that it would ‘look for ways to continue working with the land councils on all of these issues’, and that it has ‘a team who has had ongoing and regular contact with the land councils in all their forms … Because of their composition, they present different issues to the composition of a lot of other parts of government’.37

2.44 JCPAA Report 463: Commonwealth Financial Statements was based on the Committee’s inquiry into Audit Report No. 33 (2016-17), Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2016. The Committee recommended that:

- the Northern Land Council report back to the Committee on progress in responding to the two significant legislative breaches reported by the Australian National Audit Office (ANAO) in Audit Report No. 33 (2016-17), including actions taken on this matter by the Council’s audit committee
- should the ANAO audit of the financial statements of the Council for the period ended 30 June 2017 result in any significant legislative breaches being reported, whether new or unresolved from 2015-16, the Council promptly report back to the Committee on progress in responding to such findings.38

National Disability Insurance Agency

2.45 The NDIA had two significant audit findings and five moderate audit findings.39 However, as further discussed below, Audit Report No. 47 (2017-

37 Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation, Finance, Committee Hansard, Canberra, 19 September 2018, pp. 7-8.
Interim Report on Key Financial Controls of Major Entities, provided an update on the status of audit findings in major Commonwealth entities—in particular, the ANAO noted that ‘the NDIA had addressed elements of one significant finding resulting in it being downgraded to a moderate audit finding, one significant finding was resolved and one moderate audit finding had been downgraded to a minor audit finding’.  

2.46 The first significant audit finding identified in Audit Report No. 24 was in the category of IT control environment and concerned IT user access management—but, as discussed below, this finding had been resolved by the time of the following financial year’s interim audit (Audit Report No. 47).

2.47 The second significant audit finding identified in Audit Report No. 24 was in the category of compliance and quality assurance frameworks, and concerned the business assurance compliance program—but, as discussed below, this finding had been downgraded to a moderate finding by the time of the following financial year’s interim audit (Audit Report No. 47).

2.48 In 2015-16, the ANAO’s review of the NDIA’s progress towards implementing an assurance framework for claims paid to both National Disability Insurance Scheme (NDIS) participants and service providers, identified that there were ‘no documented compliance activities for payments made directly to self-managed participants’ and that the review program for payments made to providers ‘does not allow results to be extrapolated across the population to estimate the potential rate of non-compliance’. In Audit Report No. 47, the ANAO noted that, ‘based on the progress made to address this finding, it has been downgraded from a

40 Mr Hehir, ANAO, ‘Opening statement’, Submission 3, p. 3.


42 The ANAO noted ‘testing performed in 2017-18 has confirmed that the NDIA has developed a segregation of duties matrix that removes incompatible roles from any single user profile. The NDIA has also undertaken a review of user activity that took place in 2016-17 to assess the risk of any inappropriate transactions being processed due to incompatible user profiles and has implemented a process of regular review of system access to ensure access remains consistent with the user’s role. As a result this finding is now resolved’, ANAO Report No. 47 (2017-18), pp. 181-182. On actions taken to resolve this matter, see also NDIA, Submission 1, pp. 5-6.

43 ANAO Report No. 24 (2017-18), p. 266. The ANAO also identified ‘insufficient documentary evidence to demonstrate quality assurance processes over the integrity of decisions made concerning provider registrations, participant identity or eligibility and participant plan approvals’, p. 266.
significant finding to a moderate finding’.\textsuperscript{44} The ANAO found that ‘considerable progress’ had been made by the NDIA with the ‘development and endorsement of a business assurance and compliance plan which is in the process of being implemented’.\textsuperscript{45}

2.49 In its submission, the NDIA acknowledged its ‘responsibility to build and maintain a strong control and assurance environment that assists in the monitoring of high quality participant outcomes and supports the financial sustainability of the Scheme’, and provided an update on progress undertaken to resolve this moderate audit finding, including:

- enhancing the Agency’s capability and capacity to detect, respond to and resolve identified instances of incorrect payment or fraud, complemented by establishing partnership arrangements with law enforcement and other regulatory agencies;
- further development of the quality checking systems covering NDIS access and planning decisions (including ICT functionality to support the checking of access decisions which was released in September 2017); and
- reviewing the sampling methodology used in these programs to ensure a robust estimate of payment accuracy is able to be provided to support financial reporting for the Scheme.\textsuperscript{46}

2.50 Three of the five moderate audit findings for the NDIA were in the category of IT control environment.

2.51 The first of the IT related moderate audit findings identified in Audit Report No. 24 concerned IT change management—however, as discussed below, this finding had been downgraded to a minor finding by the time of the following financial year’s interim audit (Audit Report No. 47).\textsuperscript{48}

2.52 The second of the IT related moderate audit findings identified in Audit Report No. 24 involved provider registrations. A sample of provider registrations tested by the ANAO identified that, as ‘approximately 10% of provider registrations were completed by one NDIA user’, there was ‘no control preventing a single person from creating and approving a registered provider’ and, ‘once a provider has been approved as registered, a claim for

\textsuperscript{44} ANAO Report No. 47 (2017-18), p. 182.

\textsuperscript{45} ANAO, Submission 3.1, p. 1.

\textsuperscript{46} NDIA, Submission 1, p. 4.

\textsuperscript{47} ANAO Report No. 24 (2017-18), p. 262.

payment can be made without any further approval or review by the NDIA’, increasing the risk of ‘inappropriate or unauthorised providers being registered and able to submit invalid claims for payment’.\footnote{ANAO Report No. 24 (2017-18), p. 263.} In Audit Report No. 47, the ANAO noted that:

The preliminary finding from quality assurance processes over registrations for the period July-December 2017 has not identified any provider registrations created and approved by the same person. The NDIA advised that a new report to identify provider registrations that have been created and approved by a single NDIA user is in the process of being developed. Any provider registrations that have been created and approved by a single user will be reviewed.\footnote{ANAO Report No. 47 (2017-18), p. 183.}

2.53 The third of the IT related moderate audit findings identified in Audit Report No. 24 concerned IT logging and monitoring. The ANAO identified that the NDIA ‘does not have a formal policy for logging and monitoring privileged user activity’.\footnote{ANAO Report No. 24 (2017-18), p. 264.} In Audit Report No. 47, the ANAO noted that:

The NDIA has committed to developing a logging and monitoring policy for the NDIA business system, to developing and implementing a process to review the activities of privileged users and to putting in place processes to gain assurance that Human Services has appropriate controls in place to oversight Human Services IT staff that have access to NDIA systems and data.\footnote{ANAO Report No. 47 (2017-18), p. 184.}

2.54 The remaining two of the five moderate audit findings for the NDIA were in the category of compliance and quality assurance frameworks.

2.55 The first of the compliance related moderate audit findings identified in Audit Report No. 24 concerned streamlined access to the NDIS as regards defined programs. The Commonwealth, state and territory governments provide information to the NDIA on existing disability clients transitioning into the NDIS in accordance with an agreed data standard, including if a potential participant is a participant in a defined program. The ANAO identified that, ‘due to the reliance on state and territory information and the limited access review processes for participants once they have been accepted as eligible to the NDIS, there is an increased risk of ineligible participants entering the NDIS and not being identified as ineligible in a
timely manner’, with a risk mitigation strategy having ‘not been implemented to address this risk’.\textsuperscript{53} ANAO Report No. 47 (2017-18) noted that:

The NDIA has advised that a review of the Defined Program access processes, including the design of a risk-based assessment of participants deemed as eligible under a defined program, has commenced. The completion of this work is dependent on the outcome of legal advice regarding access reviews and the NDIA’s right to revoke access to the Scheme. This legal advice will be used to strengthen guidance and processes around the review of participants who have entered the Scheme through a Defined Program.\textsuperscript{54}

2.56 The second of the compliance related moderate audit findings identified in Audit Report No. 24 concerned scheme eligibility. From a sample of NDIS access requests, the ANAO identified a number of cases where ‘supporting evidence was not attached to the client record; additional evidence was requested but an access decision was made prior to receipt of the requested evidence; and the decision maker granting access did not detail the reasons for their access decision’.\textsuperscript{55} ANAO Report No. 47 (2017-18) noted that:

a program commenced in January 2018 whereby staff processing access requests have their decision reviewed prior to approval … the level of review of decisions prior to finalisation is linked to the decision makers’ level of accuracy … The ANAO will review this new process as part of our final audit phase. The NDIA has also advised that the review of access decisions is part of its broader assurance program for 2017-18. As this program had not been finalised at the time of the interim phase of our audit, this will be examined during the final audit phase.\textsuperscript{56}

2.57 In its submission, the NDIA noted that the five remaining moderate findings ‘all have action underway to address the identified risks’, and that it is ‘committed to these actions to address the outstanding findings’.\textsuperscript{57}

Financial statements: audit findings by category

2.58 The Auditor-General issued auditor’s reports on the 2016-17 financial statements of 233 Commonwealth entities, up until 30 November 2017.\textsuperscript{58}

\textsuperscript{53} ANAO Report No. 24 (2017-18), p. 263.
\textsuperscript{57} NDIA, \textit{Submission 1}, pp. 5-6.
2.59 A total of 222 findings were reported to entities as a result of these audits, comprising two significant, 20 moderate and 200 minor. The ANAO rated these audit findings across seven categories, as follows:

- IT control environment
- Compliance and quality assurance frameworks
- Accounting and control of non-financial assets
- Revenue, receivables and cash management
- Human resources financial processes
- Purchases and payables management
- Other audit findings

2.60 The highest number of significant and moderate audit findings were in the categories of:

- IT control environment
  - one significant (NDIA), 10 moderate, 73 minor findings
- compliance and quality assurance frameworks supporting program payments
  - one significant (NDIA), 5 moderate, 37 minor findings

2.61 The IT control environment is discussed below, as this was a particular focus of the Committee’s inquiry terms of reference.

**IT control environment**

2.62 IT systems are an integral part of a Commonwealth entity’s control environment supporting the preparation of financial statements. The ANAO noted that the most common area of weakness across IT related audit findings was in security management—in particular, the management of

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61 Australian Federal Police (3); Department of Defence (1); National Health and Medical Research Council (1); Department of Immigration (1); Airservices Australia (1); and NDIA (3)—see ANAO Report No. 24 (2017-18), p. 38.
63 Director of National Parks (1); Australian Digital Health Agency (1); Australian Taxation Office (1); and NDIA (2)—see ANAO Report No. 24 (2017-18), p. 39.
65 The audit findings for the NDIA across all categories were discussed in the section above.
user access and monitoring of privileged users. The ANAO emphasised that a ‘lack of controls around privileged users increases the risk of unauthorised changes being made to systems and data, or unauthorised data leakage and is an area requiring sustained focus by entities’.

2.63 The audit findings for the NDIA in the category of IT control environment were discussed in the section above. Details of the remaining moderate audit findings in this category for other Commonwealth entities are as follows:

- **Australian Federal Police (AFP)**
  - Financial Management Information System (FMIS) privileged user access management: the ANAO identified a ‘lack of formal approval processes’ for granting privileged user access; ‘inadequate processes’ for removal of access when no longer required; and ‘incomplete monitoring’ of user access.
  - User access to FMIS generic accounts: the ANAO identified that ‘generic user accounts were not assigned to specific individuals’, with such access providing ‘higher level privileges’—activity initiated with these accounts ‘cannot be appropriately monitored’, increasing the risk of inappropriate transactional activity.
  - FMIS user access provisioning and termination: the ANAO identified that the ‘configuration of the position based access provided an excessive number of users with access to sensitive transactions codes’ and ‘modifications to access were made without documentation supporting the approval’.
  - the ANAO noted the AFP had ‘advised that it was implementing processes to address [these] issues in 2017-18’.

- **Department of Defence (Defence)**
  - Monitoring of privileged activities performed by service providers: the ANAO identified ‘lack of monitoring of privileged user access to key Defence systems’.

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70 ANAO Report No. 24 (2017-18), pp. 73-74.
Audit Report No. 47 found that, ‘during the 2017-18 interim audit … Defence had taken a number of steps to remediate this finding’\textsuperscript{73}

- National Health and Medical Research Council (NHMRC)
  - User access management: the ANAO identified that external vendors have privileged user access to the agency’s IT infrastructure and FMIS—activities performed were ‘not logged’ and, as a result, ‘no regular monitoring of user activities was performed’\textsuperscript{74}
  - the ANAO noted NHMRC had ‘advised that it will implement processes and controls to address this issue in 2017-18’\textsuperscript{75}

- Department of Immigration and Border Protection
  - Management of privileged security users in the IT networks: the ANAO identified ‘weaknesses in the operation of the controls relating to granting and terminating privileged user access’, the use of personal administrator accounts rather than a designated account for the running of scripted jobs, and scripts to deactivate users for inactivity were ‘not fully operational’\textsuperscript{76}
  - Audit Report No. 47 noted that the department had ‘advised it will undertake and implement processes to address the above finding’\textsuperscript{77}

- Airservices Australia
  - Management of IT changes on the corporate network: the ANAO identified ‘weaknesses’ in IT change management processes, increasing the risk that unauthorised or inappropriate changes may be implemented\textsuperscript{78}
  - the ANAO noted Airservices had ‘advised that they will continue to mature the change processes for the corporate network as part of a program of work that started in 2016-17’\textsuperscript{79}

2.64 At the public hearings, the Committee further explored the issues identified by the ANAO regarding IT controls, including support provided to entities by Finance.

\textsuperscript{73} ANAO Report No. 47 (2017-18), p. 86.
\textsuperscript{74} ANAO Report No. 24 (2017-18), p. 193.
\textsuperscript{75} ANAO Report No. 24 (2017-18), p. 194.
\textsuperscript{76} ANAO Report No. 24 (2017-18), p. 205.
\textsuperscript{78} ANAO Report No. 24 (2017-18), pp. 224-225.
Finance noted that ‘accountable authorities have overarching responsibility for the IT controls within their entity’, and that ‘assurance regarding the adequacy of internal controls, including IT controls, is undertaken by an entity’s Audit Committee’.\(^{80}\) Finance supports entities in ‘applying rigorous internal controls to all of their systems, including IT systems, as such controls enhance the quality of financial and other information,’ but it ‘does not prescribe a whole of government controls regime, as appropriate controls must be tailored to the circumstances of each entity’.\(^{81}\) Finance further explained that it does ‘talk very regularly with CFOs [chief financial officers], and others, around the kinds of issues that have become concerns … When we see things like ICT controls becoming an issue in a particular place, we will offer support, we will offer help and … we will stay on their case to basically say that this matters’.\(^{82}\) Finance also observed that, as shared services evolve, with greater ‘standardisation’, the scope to ‘mitigate that risk is very significant’:

That will be not only in the systems they run, therefore reducing some of the variability that comes into play because people have different versions of this or that, but also in the business processes that apply. Under the banner of shared services, Finance and other departments have, in the last year or two, identified 200 or so processes that are very common across government and tried to reach agreement about what those processes ought to look like across government, if you take a whole-of-government perspective. That sort of thing … holds a lot of promise.\(^{83}\)

Finance emphasised that the IT control environment is ‘an area that changes or evolves. People have to do things to their ICT systems over time. So it is never a completely stable environment. It is always an environment where you have to go back and refresh these things … the exact nature of the ICT controls will never be completely static from one year to the next’.\(^{84}\) The Auditor-General similarly commented that IT control issues are a ‘recurring problem’:

\(^{80}\) Finance, Submission 2, p. 10.

\(^{81}\) Finance, Submission 2, p. 10. General guidance regarding controls is available to accountable authorities, including Finance’s Model Accountable Authority Instructions, and the Fraud Control Framework published by the Attorney General’s Department.

\(^{82}\) Dr Helgeby, Finance, Committee Hansard, Canberra, 19 September 2018, p. 6.

\(^{83}\) Dr Helgeby, Finance, Committee Hansard, Canberra, 19 September 2018, p. 7.

\(^{84}\) Dr Helgeby, Finance, Committee Hansard, Canberra, 19 September 2018, p. 6.
We identify issues, and entities then usually fix them ... And then people take their eye off it again and it comes back up again. It is a recurring thing in the sense that it seems to be fixed but it is something you need to keep a focus on all the time in order to prevent it from happening. In some cases, entities take their eyes off it. They don’t deal with their administrator access controls. They don’t effectively deal with making sure that users who are no longer in their department are removed from access and those types of things.  

2.67 As to whether there were any best practice processes that might assist in addressing these IT control issues, Finance noted that it encourages ‘sharing of best practice and information so that there is a conversation between entities and between CFOs’. The Auditor-General also pointed to a number of better practice system processes, such as ensuring that ‘your access control environment is linked to the HR system so that when people are taken off the HR system they lose access’ and ‘continuous monitoring frameworks’. 

Equity investment, concessional loans and contingent liabilities: budget, accounting and valuation rules

Definitions, accounting and auditing policies, and key financial reporting documents

2.68 The Committee terms of reference for the Commonwealth financial statements identified, as a particular focus, the budget, accounting and valuation rules for equity investment, concessional loans and contingent liabilities.

2.69 All financial statements prepared by the government, including those for the Budget, must comply with AAS and GFS standards. The two sets of

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85 Mr Hehir, ANAO, *Committee Hansard*, Canberra, 19 September 2018, pp. 6-7.
88 Each year, the Budget Papers include, within Statement 10 of *Budget Paper No. 1*, budgeted financial statements and supporting information regarding budget accounting practices.
89 Finance, *Submission* 2, p. 3. The AAS are set by the Australian Accounting Standards Board, based on the standards set by the International Accounting Standards Board. GFS standards are set by the Australian Bureau of Statistics, based on the international system of Government Finance Statistics set by the International Monetary Fund. (See also on this matter, ANAO Report No. 24, p. 46.)
relevant accounting standards are prescribed in legislation and set independently of the government.\textsuperscript{90} The AAS are mandated for financial statements by the Public Governance, Performance and Accountability Act 2013 (PGPA Act)\textsuperscript{91} and the Corporations Act 2001, and AAS and GFS are mandated for budget reports by the Charter of Budget Honesty Act 1998. In addition to these external standards, the financial statements format is derived from the Uniform Presentation Framework.\textsuperscript{92} The Auditor-General examines compliance with AAS standards as part of the financial statement audits.\textsuperscript{93}

2.70 Further information regarding the impact of expenditure, including equity investments and concessional loans, on the key budget aggregates, such as net operating balance, fiscal balance, net debt, headline cash balance and underlying cash balance is available in Finance Advice Paper, General Principles for Recognition of Expenditure in Budget Aggregates (July 2018).

2.71 Finance provided detailed definitions for the terms ‘equity investment’, ‘concessional loans’ and ‘contingent liabilities’.\textsuperscript{94} See also the following Finance publications:
- Finance Advice Paper: Q&A—Concessional Loans (August 2018)
- Finance Advice Paper: Q&A—Equity Investments (August 2018)\textsuperscript{95}

2.72 Accounting policies for equity investments, consistent with accounting standards, are set out in note 5C to the CFS and AAS.\textsuperscript{96} Expected future cash

\textsuperscript{90} AAS and GFS standards have been harmonised at the whole of government and general government sector levels since 2009—Finance noted that, ‘where there are material differences between the two sets of standards, the differences are reported’, Submission 2, p. 3.

\textsuperscript{91} The Finance Minister prescribes additional reporting requirements for Australian Government entities through the PGPA (Financial Reporting) Rule 2015.

\textsuperscript{92} The UPF is a national agreement that provides consistent presentation of government financial information by the Commonwealth, states and territories on a basis broadly consistent with AASB 1049, Whole of Government and General Government Sector Financial Reporting. (The current UPF has been in place since 2008.)

\textsuperscript{93} The ANAO audits of financial statements are conducted in accordance with ANAO Auditing Standards, incorporating the auditing standards made by the Australian Auditing and Assurance Standards Board, which in turn are based on auditing standards of the International Auditing and Assurance Standards Board, ANAO Report No. 24, pp. 46-47.

\textsuperscript{94} See Finance, Submission 2.

\textsuperscript{95} These papers cover such matters as ‘Where do equity investments/concessional loans appear in the Budget Papers?’ and ‘What assurance is there that the government correctly accounts for equity investments/concessional loans?’.

\textsuperscript{96} Consolidated Financial Statements for the Year ended 30 June 2017, Commonwealth of Australia, 2017. For the relevant AAS applying to equity investments, see Finance, Submission 2, p. 5.
transactions in equity investments are included in the reconciliation of headline cash balance to underlying cash balance, and itemised where there are no confidentiality issues. Information about aggregate equity investments is also disclosed in the Note 5C of the CFS. Disclosure of the values of individual government bodies and the basis of valuations, including public corporations, is included in the financial statements of the relevant portfolio entity.

2.73 Accounting policies for concessional loans, consistent with accounting standards, are set out in the GFS Manual and AAS. The principal difference between GFS and AAS accounting for concessional loans is in the treatment of the concessional element, which is an ‘other economic flow’ for GFS and an initial expense for AAS. Loan programs are disclosed in the Budget papers. Significant individual loan programs, including concessional loans, are disclosed in the Statement of Risks. Expected future cash transactions in significant individual loan programs, including concessional loans, are included in the reconciliation of headline cash balance to underlying cash balance. Concessional loans are also disclosed in Note 5A of the CFS.

2.74 Contingent liabilities are required to be included in budget reports in the Statement of Risks, as well as Note 9A to the CFS. Where capable of being quantified, contingent liabilities are recorded in the notes to the financial statements at the best estimate of the amount that would currently be required to settle the obligation—normally measured as the expected financial outcome.

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97 See, for example, Budget Paper 1, 2018-19, Statement 3, Table 7, pp. 3-28.
98 Finance, Submission 2, p. 6.
99 See Australian Bureau of Statistics, Australian System of Government Finance Statistics: Concepts, Sources and Methods, 2015. For the relevant AAS applying to concessional loans, see Finance, Submission 2, p. 8. (The ANAO noted that the Higher Education Loan Program (HELP) is the largest Australian Government concessional loan program—for further details, see ANAO Report No. 24 (2017-18), pp. 20-21.)
100 Finance, Submission 2, p. 8. Finance further noted that, ‘while GFS values concessional loans at market value, and AAS values some concessional loans at amortised cost, this would not normally result in a material difference in the value of the loans,’ p. 8.
102 See relevant Statement—Budget Strategy and Outlook Budget Paper No. 1.
103 See relevant Statement—Budget Strategy and Outlook Budget Paper No. 1.
104 AASB 137, Provisions, Contingent Liabilities and Contingent Assets, 2015, paragraph 36. For more information, see Finance, Submission 2, p. 8.
PBO research

2.75 The Committee’s public hearings for the inquiry explored whether the PBO was undertaking any research on equity investment, concessional loans and contingent liabilities, and the applicable budget, accounting and valuation rules. The PBO outlined that one of the elements of its research program is to ‘undertake an examination of the accounting and budget impact of alternative financing mechanisms that are being used’, with the aim of publishing a report on this matter in 2019.\textsuperscript{105} Work in this area ‘links back to the PBO’s mandate to improve transparency around budget issues and to assist the parliament in making informed decisions about policy proposals and pieces of legislation that come before the parliament’.\textsuperscript{106} The Parliamentary Budget Officer noted two observations from this work:

First of all, we’ve observed that there seems to be an increasing use of alternative financing mechanisms over time, and we think it would be quite useful for this report to document that—to step back and have a look at how the government’s financing of different sorts of investments has been changing over time. We’ve also observed that other organisations, like the IMF and the Office of Budget Responsibility in the UK, have been doing some work on these sorts of issues and how alternative financing mechanisms are being reflected in budget documentation. So we thought it would be useful to look at that work and see whether there are any reflections back to the way these are treated in Australia.

I would emphasise that we don’t have a view that these sorts of arrangements are inappropriate at all. We are really just coming from the perspective of making sure that the budget documentation can provide transparency — what’s the appropriate degree of transparency around what the budget impact of these sorts of arrangements are both when they are announced and over time? — so that it’s possible to understand how these arrangements are working to make a judgement as to whether or not they are working well.\textsuperscript{107}

2.76 The PBO further clarified that ‘when we say “alternative financing mechanisms”, we have a fairly big bucket here’:

We are talking about concessional loans, like loans to the WestConnex project in New South Wales; direct loans such as to the NBN; income-contingent loans

\textsuperscript{105} Ms Wilkinson, PBO, \textit{Committee Hansard}, Canberra, 17 October 2018, p. 1. (The PBO’s report was published as the Committee’s report was finalised.)


like HELP loans; the establishment of lending facilities. Sometimes they are in
the government sector and sometimes outside, like the CFC and Northern
Australia Infrastructure Facility; equity injections like to NBN Co or into the
Australian Rail Track Corporation or Snowy Hydro; and guarantees—though
they haven’t been used so much recently … the main characteristic of them is
that they’re not grants.108

2.77 The PBO research report was expected to include:

an explanation of how the budget expresses and presents risks to the balance
sheet and why that is important; a description of what alternative finance
arguments are; some metrics around how they are being used historically in
Australia; a simple-to-follow guide that will give parliamentarians and others
a useful tool to assess how different instruments affect, how they are treated in
the budget and how that presentation works. Then also … there will be some
research on how fiscal authorities in other countries represent the transactions
in their budget papers.109

2.78 The PBO noted it had previously published two research reports in this
(December 2016); and Higher Education Loan Programme: Impact on the Budget,
Report No. 02/2016 (April 2016). Both reports consider alternative financing
arrangements.110 The PBO emphasised that ‘both of those exercises certainly
demonstrated to us that at times it is quite difficult to understand what the
budget impact of some of these arrangements are … We think that they are
reflected in the aggregates. But it is actually in understanding the detail
where it can be more difficult to unpack the impacts’.111

2.79 The PBO also observed that ‘we are conscious in our engagements with
parliamentarians’, concerning requests for costings involving the use of
alternative financing arrangements, about ‘how challenging it can be for
parliamentarians to understand what the actual impacts of these
arrangements are on different measures of the budget aggregates and then
also on net worth’:

So we have developed some practices within our costings side to provide
more transparency to parliamentarians when we are providing advice on the

109 Ms Linda Ward, First Assistant Parliamentary Budget Officer, PBO, Committee Hansard, Canberra,
17 October 2018, p. 2.
costings for policy proposals that involve alternative financing arrangements. We think that that has probably provided more transparency to those parliamentarians than is sometimes available in the budget documentation.\(^{112}\)

2.80 The PBO noted the ‘different drivers for different alternative mechanisms’:

For equity investments, it’s because the government has come to the conclusion that it could be of benefit to the government to make an equity investment into a particular organisation because the government would then be able to benefit from some of the future dividends flow from that organisation. There could be a benefit from a net worth perspective in making an equity investment rather than a direct grant, for example, to an organisation. That’s on the one hand. On the other hand, we have a long history of having alternative financing arrangements being used in programs.\(^{113}\)

2.81 As to whether its research in this area would comment on the transparency around concessional loans, contingent liabilities and equity projects, the PBO responded that ‘there is what’s in the consolidated budget papers compared with what’s in the departmental portfolio budget statements compared with what’s in the annual reports and the details that entities themselves publish … what we are trying to do is to actually spell that out, and we’re not yet at the point of being able to determine whether there’s a particular view that we are going to land on about whether there is or isn’t enough transparency’.\(^{114}\)

Valuation processes

2.82 In 2016-17, the Auditor-General adopted Key Audit Matter (KAM) reporting, consistent with Auditing Standard 701, Communicating Key Audit Matters in the Independent Auditor’s Report (ASA 701).

2.83 Audit Report No. 60 (2016-17), Interim Report on Key Financial Controls of Major Entities, reported a total of 57 KAM across 25 Commonwealth entities. Details of these KAMs were also reported in Audit Report No. 24 (2017-18).

\(^{112}\) Ms Wilkinson, PBO, Committee Hansard, Canberra, 17 October 2018, pp. 1-2. The PBO further pointed to the IMF’s work in this area—with the IMF’s most recent paper on ‘Dispelling fiscal illusions’ providing ‘examples of how different accounting treatments can create a different picture of a country’s finances. Australia was one of the countries that was assessed in that report and was found to be making good progress’, Ms Ward, PBO, Committee Hansard, Canberra, 17 October 2018, p. 2.

\(^{113}\) Ms Wilkinson, PBO, Committee Hansard, Canberra, 17 October 2018, p. 2.

\(^{114}\) Ms Wilkinson, PBO, Committee Hansard, Canberra, 17 October 2018, p. 3.
Communicating KAM helps users of financial statements better understand those matters that, in the auditor’s professional judgement were of the most significance in the financial statements audit.\(^{115}\)

2.84 The majority of KAM reported in 2016-17 related to the valuation assertion in respect of assets and liabilities such as:

- loans and other receivables
- property plant and equipment
- investments
- intangibles
- provisions
- concessional loans\(^{116}\)

2.85 The public hearings further explored a KAM relating to the Communications and Arts Portfolio. The ANAO identified, as a key area of financial statements risk, the valuation of the Australian Government’s investment in the NBN Co and Australian Postal Corporation, due to the ‘complexity of the valuation process in light of estimates and judgments required’.\(^{117}\) As the Auditor-General explained, ‘some of the issues that are of significant complexity—difficult to measure, and impose risks—are those valuation activities’:

For NBN, the issues that we deal with … are how you value the asset base to appropriately reflect its income-earning capacity. What we do for NBN is look at the valuation on a cost basis, and then undertake an impairment assessment of it. That impairment assessment is an economic impairment, and it looks at the discounted cash-flow type of activities, so we get a triangulation of what an appropriate valuation is. So the entity is doing that, we’re retesting it and checking to see whether it’s appropriate. It’s complex, it’s assumption based, therefore it has risks associated with it. Similar things flow through to Australia Post.\(^{118}\)

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\(^{115}\) The audit opinion is made in respect of the financial statements as a whole. Accordingly, the description of KAM does not provide a separate conclusion on the matter being described, nor does it imply that the matter has been appropriately resolved in forming the overall opinion, ANAO Report No. 24 (2017-18), p. 30.


\(^{117}\) ANAO Report No. 24 (2017-18), Table 4.3.3, p. 88.

\(^{118}\) Mr Hehir, ANAO, Committee Hansard, Canberra, 19 September 2018, p. 2. Two methodologies may be used for valuations—‘one is the cost basis for the NBN and the other is fair value for the whole-of-government accounts’, Mr Hehir, ANAO, Committee Hansard, Canberra, 19 September 2018, p. 5.
2.86 The Auditor-General provided further information on how the ANAO tests the reasonableness of the assumptions underpinning these valuations:

They are assumptions—forecasts, whatever—so when we undertake the audit of these things we use the relevant audit standards with respect to that. Almost invariably, assumptions change as the world changes around us. We’re testing them to see whether they are the most robust assumptions at the point of time that the accounts are presented. I sign off those accounts on the basis of the work we do. When the NBN accounts are tabled, you’ll see the assurance that we give, and it will describe some of the work we do in this context … This is an area, like all of them, where we undertake our audit robustly. I can provide that level of confidence, because we signed off the accounts.\(^\text{119}\)

2.87 As to the process by which NBN Co is valued, Finance outlined that:

Every year, NBN is valued for the purposes of the accounts. It flows through the accounts of the Department of Communications and the Arts. It gets picked up in the consolidated financial statements. Every year, the process is done rigorously, both from the perspective of the preparation of the statements and from the perspective of the audit … Every year, when a figure is published for the valuation of NBN, that is the best possible information tested by the best possible means at that point in time, with all of the relevant assumptions tested at that point in time … … when a number is published that gives a value to NBN, that is the best possible number that can be put on it.\(^\text{120}\)

2.88 Finance further emphasised the ‘rigorous process’ behind such valuations—‘the [NBN] board is responsible for running its business. It is responsible under the law for signing off on their accounts. They have gone through an incredibly rigorous process by the time they produce that. They test those assumptions’:

The very first thing that happens is that the board makes judgements and reaches conclusions based on all of the streams of information that are available to it. The board and its statements are themselves subject to audit. Then there are all of these other steps. The steps of consolidating them into the accounts of the Department of Communications and the Arts, and then the further step of consolidating it into the consolidated financial statements, goes through audit again, from a different perspective. So, in many ways, if you count internal audit, audit of NBN, audit of the Department of Communications and the Arts and audit of the consolidated financial

\(^\text{119}\) Mr Hehir, ANAO, Committee Hansard, Canberra, 19 September 2018, p. 4.

\(^\text{120}\) Dr Helgeby, Finance, Committee Hansard, Canberra, 19 September 2018, p. 3.
statements, you can say that there are many layers here by which every piece of information that is relevant can be brought to the table—is brought to the table and is tested. Therefore, the number that comes out of it is the best possible number.\textsuperscript{121}

2.89 There was interest in a recent Standard and Poor’s publication on the NBN.\textsuperscript{122} The Auditor-General noted that, ‘with respect to our audit of the 2017-18 accounts of NBN, the Standard & Poor’s work came out during the course of that audit. We considered the analysis that they did in the context of it, like we would any of that type of analysis … Standard & Poor’s analysis came out, we saw it and we took it into account in undertaking our analysis’.\textsuperscript{123}

2.90 The PBO was asked if it had conducted any research identifying how much equity the government had invested in the NBN and how that compared to the current valuation of the NBN. The PBO responded that ‘the paper that we published in 2016 on the NBN tried to do exactly this … That paper was entirely based on publicly available information, but it was quite challenging to pull it together’.\textsuperscript{124} As the PBO further explained:

What we were doing in the NBN paper … was trying to track through time on a historical basis—so up to the latest information we had—and answer what the budget impact of the Commonwealth’s investment in the NBN is. So the way we went about that was we started at the bottom level. We went to the NBN Co annual reports and the financial statements that are contained in those and looked at the financial reporting that was in their statements, tracking that through to the annual reports of the Department of Communications and the Arts—how they were valuing the assets. There is a contributed equity and then there is a fair-value valuation, which is the value that the Commonwealth is placing on that particular asset at the point in time. Then we had a look at how that was reflected in the budget papers.

As part of that exercise and that report, we were able to on an annual basis work through from the NBN Co annual reports up through the budget papers to see what the budget impact was. Now, that’s on historical bases up to the

\begin{itemize}
\item[\textsuperscript{121}] Dr Helgeby, Finance, \textit{Committee Hansard}, Canberra, 19 September 2018, p. 4.
\item[\textsuperscript{122}] See, for example, Standard and Poor’s, \textit{Global Ratings}, ‘Australia’s National Broadband Network’, 24 July 2018, p. 2, p. 7.
\item[\textsuperscript{123}] Mr Hehir, ANAO, \textit{Committee Hansard}, Canberra, 19 September 2018, p. 4. See also on this matter, Dr Helgeby, Finance, \textit{Committee Hansard}, Canberra, 19 September 2018, p. 4.
\end{itemize}
latest actuals … on a forward-looking basis, it’s a bit more challenging to find the disaggregated information around the issue of valuations.125

2.91 The PBO described its experience in trying to track such information—‘in a historical sense, it does require going through pages in terms of the entities’ annual reports and agencies’ reports through to the budget papers, but, in a forward-looking sense, it’s largely the measure descriptions … and to some extent the statement of risks’.126 As the PBO further observed:

As a general comment, based on our experience with research publications, there is more disaggregated information on the past budget impacts of alternative financing arrangements than there is on the projected future budget impact.

In our experience, entity and departmental annual reports tend to have detailed disaggregated information on a historical basis about the actual budget impacts on equity investments, asset valuations and flows relating to loans.

The forward looking Portfolio Budget Statements that are released as part of the budget papers tend to have less disaggregated information than annual reports. This makes it difficult to identify expected asset values and flows related to the individual entities administered by a government department.127

2.92 On notice, Finance, the ANAO and the PBO were asked how much equity had been invested in the NBN, and for total government contributions to the NBN and the valuation of the NBN.128 On notice, Finance, the ANAO and the PBO were also asked about the projected draw-down of the loans and contribution of equity to the NBN, and any sense of the likely valuation as that occurs.129

Equity investment

2.93 There was interest at the Committee’s public hearings in further understanding where details might be located in budget documentation for new projects such as infrastructure packages. Finance explained that:

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125 Mr Lok Potticary, Director, PBO, Committee Hansard, Canberra, 17 October 2018, p. 3.
126 Ms Ward, PBO, Committee Hansard, Canberra, 17 October 2018, p. 4.
127 PBO, Submission 4, p. 1.
128 See Finance, Submission 2.4, p. 1; ANAO, Submission 3.2, p. 1; and PBO, Submission 4, p. 2.
129 See Finance, Submission 2.4, p. 2; ANAO, Submission 3.2, p. 2; and PBO, Submission 4, p. 2.
New decisions of government will be reported in Budget Paper No. 2, which is the list of measures. Within Budget Paper No. 1, statement 9 is headed ‘Statement of risk’. Within that, there is a summary of Australian government loans exceeding $200 million … It gives you a listing of those and some information in relation to them. Then there are descriptions beyond the table, which gives you some more context there. That also gives you the indication of which portfolio those loans sit with. You’d be able to go back to the portfolio budget statements of the individual portfolios and information that they have available to give you further detail.130

2.94 Finance confirmed that, before an equity investment is made, ‘an assessment is undertaken to determine whether it’s likely that a rate of return after inflation on the government’s investment will be achieved’.131 If, at a future point in time, ‘there’s an assessment done of a future investment and it isn’t anticipated that it will meet the threshold rate of return’, then a payment at that time ‘may be considered to be a grant’,132 and ‘if it was projecting to be a loss, we would only make some budget provision for that at the time that we were committed to contribute towards the loss’.133 In terms of the three sectors within government (the general government sector, the public non-financial corporations sector (PNFCs) and the public financial corporations sector), Finance further noted that the ‘first test for an equity investment is that the investment can only be by the general government sector in one of those other sectors’—typically the public non-financial corporations sector.134 In terms of the second and third tests, ‘one is about an expectation of a real rate of return at the time the investment is made and the other is about the expectation of the ability to recoup the investment’.135 As to what time

130 Ms Carroll, Finance, Committee Hansard, Canberra, 19 September 2018, p. 8. Finance provided further details on this matter, including a table setting out ‘Total transport infrastructure expenditure, including payments for specific purposes to support state infrastructure services in Budget and payments to non-state entities, equity and loans’, Submission 2.3, p. 2.

131 Mr Peter Gibson, Assistant Secretary, Budget Estimates and Accounting, Governance and APS Transformation, Finance, Committee Hansard, Canberra, 22 August 2018, p. 1.

132 Ms Carroll, Finance, Committee Hansard, Canberra, 22 August 2018, p. 2.

133 Mr Gibson, Finance, Committee Hansard, Canberra, 22 August 2018, p. 2.

134 Dr Helgeby, Finance, Committee Hansard, Canberra, 22 August 2018, p. 2.

135 Dr Helgeby, Finance, Committee Hansard, Canberra, 22 August 2018, p. 2. See also the Auditor-General—according to the Finance guidance, equity investments have two conditions: one is that ‘it should expect to earn a rate of return at least equal to a long-term inflation rate’ and the other is that ‘there should be a reasonable expectation that the investment is recovered’, Mr Hehir, ANAO, Committee Hansard, Canberra, 22 August 2018, p. 2.
period would be considered reasonable for recouping such an investment, Finance responded that, ‘if we’re talking about a business that has a five-year time span, then we’re talking five years. If we’re talking about a business that’s an ongoing operation, then it’s a much longer time frame’.  

2.95 Noting the integrity of Commonwealth budget and accounting rules, there was also interest in exploring whether there was sufficient transparency at the project-level in financial reporting to track the following scenario—where an equity investment is made in a project (that does not generate a real rate of return and repay its capital within a reasonable time frame) and that project is placed in an otherwise profitable entity (that does generate a real rate of return and repay its capital within a reasonable time frame), with this lowering the entity value (reducing entity returns and a government’s net worth in future years) and the loss then being reported as an ‘other economic flow’.

2.96 Finance explained that transparency at the project level is provided through such documents as entity annual reports, audited entity financial statements and the Portfolio Budget Statements, as well as published business cases, rather than in the CFS and Budget documents, which provide aggregates and consolidations:

> The right place to go and look for the level of impact [regarding projects] ... is in the entities which have projects. They also have audited financial statements and they publish them in annual reports and other places—in plans and other documents. That’s where you will get that sort of detail. When we are talking about budget documents and CFSs, we are talking about aggregations and we are talking about the cumulative impacts, some of which are pluses and some of which are minuses. And we are talking about the cumulative impacts on the government’s position as a whole. In effect, that’s what these documents are trying to get across. They are not trying to get across the detail of an individual project because there are other places where that happens.

2.97 The PBO further commented that, ‘in the statement of risk, so statement 9, there is a listing ... of government loans above $200 million on an individual

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136 Dr Helgeby, Finance, Committee Hansard, Canberra, 22 August 2018, p. 3. As Finance further emphasised, ‘it does depend on the type of investment. Some of the infrastructure-type investments have a longer time frame, and that’s consistent with the infrastructure industry generally ... So 30 years; some may be even up to 50 years’, Mr Gibson, Finance, Committee Hansard, Canberra, 22 August 2018, p. 3.

137 Dr Helgeby, Finance, Committee Hansard, Canberra, 22 August 2018, p. 7.

138 Dr Helgeby, Finance, Committee Hansard, Canberra, 22 August 2018, p. 8.
loans basis. So the government does choose, or has over time chosen, to provide that level of detail around the exposure of the budget, or the balance sheet, to individual significant loans’.  

2.98 As to which reporting documents would provide transparency in terms of the equity investment in the Australian Rail Track Corporation (ARTC), Finance responded that:

if you’re looking at the impact on the ARTC itself and the return it is getting on its own investment, that should be evident from its own annual report, where it would publish its own financial statements, publish its own balance sheet—profit and loss and what have you. If you are looking at the impact of the value of the business to the government, that would be reported in the financial statements of the responsible portfolio department. In their notes to their financial statements, they would identify the current values of the investments the government has in the various public corporations.

2.99 Finance provided an answer to a question on notice regarding the projections for the ARTC’s cash flows, returns, value and other financial metrics—both including and excluding the inland rail project. Some members of the Committee were not able to fully understand the impact on the ARTC’s profitability of being required to deliver the Inland Rail project. The Committee is interested in reporting approaches that will keep the Parliament informed about any changes to results during the life of a long-term project, where those changes could impact on the timing of its expected contribution to future profitability.

**Other audit matters**

**Timeliness of financial reporting**

2.100 The PGPA Act requires Commonwealth entities to provide an annual report to the entity’s responsible Minister by the 15th day of the fourth month after

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139 Ms Wilkinson, PBO, Committee Hansard, Canberra, 17 October 2018, p. 5.

140 Mr Gibson, Finance, Committee Hansard, Canberra, 22 August 2018, p. 8. See also on this point, the Auditor-General: ‘with respect to the entities which hold the equity in the corporations, they are required to fair-value that … investment … That write-down would appear in the accounts of the portfolio entity’, Mr Hehir, ANAO, Committee Hansard, Canberra, 22 August 2018, p. 8.

141 Finance, Submission 2.1, pp. 1-2. See Submission 2.1 for further details of ARTC financial metrics, pp. 1-2. See also Mr Andrew Jaggers, Acting Deputy Secretary, Commercial and Government Services, Finance, for further clarification on ARTC time frames and return on equity being in ‘ARTC as a whole’—Committee Hansard, Canberra, 19 September 2018, pp. 1-2.
the end of the reporting period (15 October). Audited entity financial statements are included in an entity’s annual report.

2.101 Of the 178 entities required to table an annual report in 2016-17:

- 54 auditor’s reports (30 per cent) were signed within two months
- 108 auditor’s reports (61 per cent) were signed between two and three months

2.102 In relation to the dates of annual reports being tabled in Parliament:

- two entities tabled the annual report within three months
- 151 entities tabled the annual report between three and four months
- the remaining 25 entities tabled the annual report four months or more after the reporting date

2.103 The length of time taken by entities to approve and table the annual report from the date the auditor’s report was provided was:

- approve the annual report: from zero to 91 days with an average time of 17 days
- table the annual report: from 13 to 102 days with an average time of 47 days

Financial sustainability

2.104 The ANAO has developed parameters based on generally accepted concepts of financial sustainability and applied these to the operating results and balance sheets of the 68 material Commonwealth entities. The Auditor-General noted there would be ‘benefit in the Government developing performance targets or benchmarks to enable entities to assess their own financial sustainability against agreed parameters over time and against like entities’.

2.105 In JCPAA Report 463: Commonwealth Financial Statements, the Committee recommended that: ‘the Department of Finance, in consultation with the Australian National Audit Office, work to: develop appropriate and robust performance targets or benchmarks, which can be publicly reported, to

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146 Mr Hehir, ANAO, ‘Opening statement’, Submission 3, p. 4.
enable Commonwealth entities to assess their own financial sustainability against agreed parameters over time and against like entities’ and ‘provide the Committee with a timeline and milestones for implementation of this initiative’.  

2.106 In the Executive Minute response to the Committee’s recommendation, Finance noted that financial sustainability performance metrics ‘could be released as part of the rollout of digitised 2018-19 Annual Reports’.  

Executive remuneration reporting

2.107 The ANAO noted that GBEs and Commonwealth entities were requested to provide additional information on their websites relating to senior management personnel remuneration, starting from the 2016-17 reporting year, by 31 July 2017.  

2.108 The ANAO examined the executive remuneration reporting of 157 entities to establish whether they had published the requested information and when it was published. As at 31 October 2017, 134 had published the information—the 23 entities that had not published this information advised the ANAO this was variously due to:

- two entities not being aware of the request
- privacy considerations
- the current reporting in the financial statements, separately provided on the website, being considered adequate
- the current reporting in the financial statements being considered adequate
- the reporting not adding additional information as all executives were appointed under the remuneration tribunal
- the decision to publish the requested information in the annual report or on the website at the time of tabling the annual report

2.109 A total of 68 entities (some 50 per cent) published the information in accordance with the requested timeframe of 31 July, with a further 36
entities (27 per cent) published in August.\textsuperscript{151} The ANAO noted that four entities did not provide a breakdown of the components within the remuneration package.\textsuperscript{152}

2.110 At the public hearings, Finance provided an update on Commonwealth entities and companies that had not published information on executive remuneration, as at 11 September 2018.\textsuperscript{153}

2.111 In JCPAA Report 463: Commonwealth Financial Statements, the Committee made a number of recommendations to reinstate disclosure of executive remuneration reporting by Commonwealth entities, including GBEs, consistent with previous practice and also reflecting, as relevant, Australian Securities Exchange requirements.\textsuperscript{154}

2.112 The recent report of the Independent Review into the Operation of the PGPA Act and Rule also made the following recommendations on this matter:

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Current arrangements for reporting executive remuneration across Commonwealth entities do not provide sufficient transparency and accountability for the use of public resources for this purpose. To improve transparency and accountability on executive remuneration, we recommend:

35. Accountable authorities should disclose executive remuneration in annual reports on the following basis, as shown in Appendix C to this report:

- (a) the individual remuneration (including allowances and bonuses) of the accountable authorities and their key management personnel on an accrual basis, in line with the disclosure by Australian Securities Exchange listed companies; and

- (b) the number and average remuneration (including allowances and bonuses) of all other senior executives and highly paid staff, by band and on an accrual basis, broadly consistent with the reporting arrangements in place up to 2013-14.

36. Accountable authorities should provide an explanation of remuneration policy and practice, relating to key management personnel, senior executives
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\textsuperscript{151} ANAO Report No. 24 (2017-18), p. 50. (The ANAO considered information published by entities up to 31 October 2017, p. 49.)

\textsuperscript{152} ANAO Report No. 24 (2017-18), p. 51.

\textsuperscript{153} Finance, Submission 2.2, pp. 1-2.

and other highly paid staff, broadly consistent with the reporting practices of Australian Securities Exchange listed companies.\footnote{Independent Review into the Operation of the PGPA Act and Rule, Elizabeth Alexander AM and David Thodey AO, Commonwealth of Australia, September 2018, p. 7.}
Chapter 3 sets out the findings of the Joint Committee of Public Accounts and Audit (JCPAA) inquiry into foreign investment obligations in residential real estate, based on Audit Report No. 48, Managing Compliance with Foreign Investment Obligations for Residential Real Estate. The Australian Taxation Office (ATO) and the Department of the Treasury (Treasury) were the audited entities.

The objective of the audit was to ‘assess the effectiveness of ATO’s and Treasury’s management of compliance with foreign investment obligations for residential real estate’.  

The ANAO stated that it selected foreign investment in residential real estate as an issue to audit due to public and parliamentary interest in the issue including ‘concerns that foreign investors were not complying with foreign investment obligations and purchasing properties they were not entitled to own’.  

In 2015-16 foreign investment approvals in residential real estate were valued at $72.4 billion and accounted for 29 per cent of total foreign investment approvals in Australia.

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1 ANAO Report No. 48 (2017-18), Managing Compliance with Foreign Investment Obligations for Residential Real Estate, p. 19.


Australia’s framework for managing foreign investment in residential real estate is regulated through the Foreign Acquisitions and Takeovers Act 1975 (Cth) (FATA) and related regulations.\(^4\)

The current regulatory framework aims to increase housing supply by channelling foreign investment into new housing. Foreign investors are required to receive an approval prior to purchasing residential real estate in Australia. Foreign investment applications for new dwellings are usually approved but foreign nationals are prohibited from buying established dwellings.\(^5\)

In 2013, the Senate Rural and Regional Affairs and Transport References Committee issued a report into Foreign Investment and the National Interest, which made 29 recommendations. This was followed, in 2014, by the House Economics Committee’s Report on Foreign Investment in Residential Real Estate, which made 12 recommendations.\(^6\)

Following these two reports, in the 2015-16 Budget the Government announced that responsibility for regulating foreign investment in residential real estate would move from the Treasury to the ATO.\(^7\)

The ANAO used three criteria to make an assessment against the objective of the audit:

- 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
- The effectiveness of compliance arrangements was monitored and reported.\(^8\)

Chapter 3 comprises:

- Committee conclusions and recommendations
- Review of Evidence.

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\(^5\) ANAO Report No. 48 (2017-18), pp. 16-17.
\(^7\) ANAO Report No. 48 (2017-18), p. 19.
Committee Conclusions and Recommendations

3.11 The Committee considers that foreign ownership of residential real estate is a matter of strong community concern and it is important that the broader community have confidence that laws and regulations in this area are being applied and enforced.

3.12 The Committee acknowledges the Australian Taxation Office’s progress since gaining responsibility for foreign investment in residential real estate which is proving to be a significant amount of work.

3.13 The Committee supports the recommendations made by the ANAO and notes that the Australian Taxation Office and the Department of Treasury have agreed to these.

Recommendation 8

3.14 The Committee recommends that the Australian Taxation Office report back to the Committee on its progress in implementing the recommendations from the Auditor-General’s Report No. 48 (2017-18), complete with timeframes, planned deliverables and outcomes observed to date.

3.15 The Committee notes the ATO’s progress in relation to populating the National Land Register with data of all foreign ownership of residential land in Australia. The ATO plans to report to the Government on the National Land Register in the first quarter of 2019. The Committee will seek a copy of this report if it becomes publicly available.

3.16 The Committee was concerned with the ATO’s lack of data gathering around the intermediary community (defined below, including real estate agents, conveyancers and others commonly involved in the facilitation of property transactions). The Committee understands that this is a recent responsibility for the ATO and there are ‘workarounds’ but the Committee considers more should be done to ensure community confidence in the department and FATA framework.

3.17 The Committee is also concerned by the lack of duty imposed on the intermediary community in the FATA regime to report their clients for breaches, or suspected breaches, of the Act. The Treasury indicated changes in this area could part of a future policy review of FATA. The Committee recommends that Treasury include consideration of this in such a review in the future.
Recommendation 9

3.18 The Committee recommends that, in a future review of the Foreign Acquisitions and Takeovers Act 1975 (Cth), the Department of Treasury investigate the possibility of including a positive obligation on the intermediary community to report to the Australian Taxation Office, clients who they suspect are in breach of their obligations to report or apply to the Foreign Investment Review Board for approval to purchase property.

3.19 The Committee notes the ATO’s lack of hard data and analysis in relation to many matters it queried during the course of public hearings. The Committee would like to see more analysis of the data collected by the ATO. In particular the Committee is concerned by the lack of analysis around the geographic location of breaches. Data provided to the Committee showed a high disparity in the number of breaches between States and the ATO was not able to adequately explain the variances.

3.20 The Committee notes the ATO is working on creating data matching rules to investigate the practice of foreign purchasers using beneficial ownership in order to avoid their obligations under the foreign investment in residential real estate regime.

3.21 The Committee was particularly concerned by the lack of civil and criminal penalties sought or imposed upon breaching parties or their intermediaries under the FATA regime. To date, the ATO has not applied any civil or criminal penalties for breaches of the foreign investment regime.9

3.22 The Committee was also concerned by the responses from the ATO which acknowledged that despite the ATO’s capacity to require foreign investors to pay over capital gain on disposing of property, the ATO has yet to do so. No comment or explanation was provided for this failure to seek to recover capital gains made on illegally purchased property.

3.23 While the Committee understands the lengthy nature of the litigation progress, especially in relation to criminal prosecutions, it considers that this is an area which could enhance public confidence in the residential property foreign ownership regime.

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9 Australian Taxation Office (ATO), Submission 1: 3, Answer to Question on Notice, p. [1].
Recommendation 10

3.24 The Committee recommends that the Australian Taxation Office prioritise and improve processes around:

- the collection and analysis of data around the geographic location of breaches

- the creation of data matching rules in order to determine if there are foreign purchasers using beneficial ownership in order to avoid their obligations under the foreign investment in residential real estate regime as recommended by the Australian National Audit Office

- the application of civil and criminal penalties applied under the same regime

And report back to the Committee on its progress on these matters by the end of October 2019.

Review of Evidence

3.25 This section reviews the evidence received by the Committee regarding the ATO and Department of Treasury’s management of the foreign investment in residential real estate frame work in terms of:

- The national land register currently being compiled by the ATO
- Compliance and voluntary compliance strategies
- Detection and investigation
- Monitoring and reporting
- Other matters

National Land Register

3.26 In its 2014 Report on Foreign Investment in Residential Real Estate the House Standing Committee on Economics recommended that:

...the Government, in conjunction with the States and Territories, establish a national register of land title transfers that records the citizenship and residency status of all purchasers of Australian real estate. This information should be accessible by relevant agencies from a single database.10

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10 Standing Committee on Economics, Report on Foreign Investment in Residential Real Estate, p. xviii
3.27 The Federal Government agreed to the recommendation noting that it was working with the states and territories to establish a ‘foreign ownership register of land to include land title transfer information from existing state and territory land title collection processes’.¹¹

3.28 The ANAO noted that the National Land Register includes information on agricultural land, water access rights, and residential real estate. The registration of agricultural land and water access rights is required under legislation and the ATO undertook a stocktake of foreign owned agricultural properties. By contrast, the residential real estate register is not backed by legislation and ‘there will be no stocktake of foreign-owned residential real estate for the register’.¹²

3.29 The ANAO also reported that the states and territories were ‘not collecting information necessary to develop the register, such as purchasers’ nationality and other foreign identifiers’.¹³

3.30 The Federal Government introduced legislation to amend reporting arrangements and expand the data being collected for the residential land register. The legislation was implemented on 1 July 2016, however at that time the states and territories (with the exception of New South Wales) had not passed the associated legislative changes to support these new reporting arrangements.¹⁴

3.31 By February 2018 all states and the Australian Capital Territory were in a position to provide the Federal Government with property transfer information that included relevant foreign identity data. The ANAO noted, however, that the provision of foreign identity data in property transfer reports is optional. The ANAO stated that ‘this may result in lower completion of fields’.¹⁵

3.32 As an interim measure, while the states and territories passed legislation enabling the collection of foreign identifier data, the ATO developed a self-registration process for foreign investors purchasing residential real


estate. The online form for self-registration was available to foreign investors from 1 July 2016.\(^{16}\)

3.33 The ANAO compared the numbers of self-registrations with the number of foreign investors who had gained approval to invest in residential real estate. The ANAO found that between July 2016 and December 2017 there were 2549 self-registrations while, between July 2015 and December 2017, there were 35,966 foreign investment approvals for residential real estate. Self-registrations, therefore, ‘represented 7.1 per cent of all approvals over the period’.\(^{17}\)

3.34 The ANAO acknowledged that the difference between the figures for self-registration and investment approvals could be in part due to the different time periods used and, in part, because ‘application approvals represent proposed investment and not all foreign investment approvals result in a purchase.’\(^{18}\)

3.35 In addition, the ATO noted that meaningful comparison between self-registrations and approvals was also hampered by the settlement periods for off-the-plan purchases that often occur 2-4 years after approval is granted. The ATO added that it would be a ‘flawed assumption’ to conclude that the difference between approvals and self-registration implied significant under-registration.\(^{19}\)

3.36 Further, in order to mitigate the risk of under registration through the self-registration process, the ATO has done extensive data matching manually using State and Territory property information. This was done in order to fill the land register with information before automation of the process commenced.\(^{20}\)

3.37 Mr Jessica Robinson from the Department of the Treasury confirmed that Foreign Investment Review Board (FIRB) approvals do not always correlate with a property acquisition. Applicants can have multiple approvals for property as well, though the introduction of fees associated with FIRB

\(^{16}\)ANAO Report No. 48 (2017-18), p. 25.
\(^{19}\) ATO, Submission 1, p. 11.
\(^{20}\) ATO, Submission 1, p. 11.
applications has reduced this practice. The Treasury agreed with the ATO’s comments on this issue.21

3.38 Ms Robinson said further:

I don’t think we can give you with any precision the exact gap between actual investment and approval rates, and that is a good reason that the government is putting in the register, so that we have a much clearer sense of actual investment as opposed to approval data. That register is an important remedy to fix that issue of not having clarity around what the actual investment is.22

3.39 The Auditor-General pointed to the challenges the ATO face in populating the National Land Register with reliable data:

I think what we were trying to do with the analysis was put that together with the other pieces of evidence within the chapter…which was simply that they [the ATO] face considerable challenges in populating the register with reliable data. I certainly wouldn’t say that 7.1 per cent is the exact number…but if you combine it with the rest of the analysis in the chapter I think the findings and conclusions of the analysis are robust and that they stand.23

3.40 Mr Konza said that the primary mechanism for populating the Register with data should be ‘the voluntary registration by purchasers through the state and territory land registers,’ which remains a challenge for the ATO.24

3.41 Once information from State and Territory governments has been standardised in 2019, the ATO intends to report annually on the Register.25

3.42 At the time of providing their supplementary submission, the ATO stated that both South Australia and Western Australia had not passed legislation to collect foreign ownership information during residential property transactions. In Western Australia the legislation is being drafted.26

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21 Ms Jessica Robinson, Principal Adviser, Department of the Treasury, *Committee Hansard*, Canberra, 12 September 2018, p. 5.

22 Ms Robinson, Department of the Treasury, *Committee Hansard*, Canberra, 12 September 2018, p. 5.

23 Mr Grant Hehir, Auditor-General, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 12 September 2018, p. 6.


26 ATO, *Submission 1: 1*, Answer to Questions on Notice, p. [2].
3.43 In South Australia the Statutes Amendment and Repeal (Budget Measures) Bill 2018 (SA), which included amendments to the Taxation Administration Act 1996 (SA) and the Stamp Duties Act 1923 (SA) to allow collection of information on foreign ownership for reporting to the Federal Government, was assented to on 22 November 2018. ‘These amendments will come in to operation on a day to be fixed by proclamation.’

3.44 The Northern Territory will not be collecting foreign identifier data, as it did not agree to participate in the National Register of Foreign Ownership of Land Titles project.

3.45 The ATO continues to use alternative methods of data matching and self-registration in order to populate the Register with relevant foreign ownership data from these States and Territories.

3.46 Mr Mark Konza of the ATO said:

...while there have been delays by states and territories in collecting and remitting foreign identity information to the ATO, we have implemented effective strategies to ensure that the register is populated with sales to foreign persons. This process will become more efficient over time as the states and territories all start to collect and remit foreign identity information.

3.47 Mr Konza pointed out that the computer programing and procedural changes as well as education needed to address the changes in FATA have slowed the process of gaining data from the States and Territories. He also made note that foreign purchases of residential real estate make up a very small portion of property purchases and were perhaps not a high priority for these governments. This is why voluntary self-registration is so important to populating the Register.

3.48 Despite difficulties in populating the Register, the ATO is on track to prepare a report to the Federal Government on this issue in the first quarter of 2019.

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28 ATO, Submission 1: 1, p. [2].

29 ATO, Submission 1: 1, p. [2].

30 Mr Konza, ATO, Committee Hansard, Canberra, 12 September 2018, pp. 1-2.

31 Mr Konza, ATO, Committee Hansard, Canberra, 12 September 2018, p. 6.

Ms Robinson of the Treasury clarified that due to differences in the levels of information available from different jurisdictions, the Report will only be based on data from 2016-2017 onwards.\textsuperscript{33}

Mr Konza added that this report will be the first report completed by the ATO on this issue and, although the data will be complete, it will likely result in ‘a barrage of questions’ from the government which will need to be addressed. \textsuperscript{34}

### Compliance Strategies and Voluntary Compliance

The ATO does not currently have a compliance and enforcement strategy for foreign investment in residential real estate; however it does have a documented risk assessment and corresponding risk treatment plan which were completed in December 2016.\textsuperscript{35}

The ANAO recommended that the ATO implement a compliance and enforcement strategy, drawing upon their existing risk assessment and treatment documentation for foreign investors in residential real estate. The ATO agreed with the recommendation as discussed further below. \textsuperscript{36}

### ATO Risk Assessment and Risk Treatment

The ATO’s risk assessment included assessments of individual’s psychological traits, cultural influences, and other risk drivers, such as a lack of knowledge about the obligations to report foreign ownership.\textsuperscript{37}

The risk assessment outlined the types of controls the ATO used to mitigate, detect and prevent risks relating to foreign investment. The ATO lacked evidence to determine if these controls were actually effective, so the assessment done was on the ‘expected’ effectiveness of these controls. Examples of these controls were:

- Preventative: self-disclosure, a dedicated telephone helpline, education and information activities, a new penalty regime, intermediary and other third party involvement

\textsuperscript{33} Ms Robinson, Department of the Treasury, Committee Hansard, Canberra, 28 November 2018, p. 9.

\textsuperscript{34} Mr Konza, ATO, Committee Hansard, Canberra, 28 November 2018, p. 9.


\textsuperscript{36} ANAO Report No. 48 (2017-18), p. 36.

\textsuperscript{37} ANAO Report No. 48 (2017-18), p. 31.
Mitigative: legislative changes to the Act, reduced application processing times

Detective: A community referral telephone line, case selection through data matching, compliance activities

3.55 The ATO’s assessment of its controls was that the mitigative and detective controls were effective while the preventative controls were partially effective. However, the ANAO felt the effectiveness of the detective and mitigative controls was overstated, due to the data matching program being in its early stages and that the ATO had not properly addressed the risks posed by the intermediary community.

3.56 The ATO’s risk treatment plan involved both preventative and detective strategies, as well as penalties, to address non-compliance by foreign investors. All of these treatments were being implemented by April 2018, with their due date listed as ‘ongoing.’

The Intermediary Community

3.57 The ‘intermediary community’ were identified as potential compliance risks by the ATO’s risk assessment framework.

3.58 The term ‘intermediary’ is not defined in the FATA. However, in response to Questions on Notice, the ATO stated:

The intermediary community can refer to those that are authorised to deal with the ATO on behalf of clients for FATA purposes, or even those that engage with foreign investors during the marketing process for their business activities.

3.59 Mr Mark Konza of the ATO stated that the ‘intermediary community’ is largely made up of conveyancers and real estate agents. These two groups are particularly important due to the roles they play in the sale of properties to foreign investors. There are specific real estate practices which target

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38 ANAO Report No. 48 (2017-18), pp. 31-33
39 ANAO Report No. 48 (2017-18), p. 34.
40 ANAO Report No. 48 (2017-18), pp. 34-35.
42 ATO, Submission 1: 1, p. [1].
foreign property purchasers and conveyancers play a vital role in recording data correctly.\footnote{Mr Konza, ATO, \textit{Committee Hansard}, Canberra, 12 September 2018, p. 2.}

3.60 In response to questions on notice, the ATO stated that the intermediary community can also include ‘tax agents, accountants … solicitors, migration agents, and developers.’\footnote{ATO, \textit{Submission 1: 1}, p. [1].}

3.61 There was interest at public hearings about the duties on intermediaries to report clients who they believe or suspect are engaged in breaches of the foreign investment regime. Ms Robinson of the Treasury confirmed that there was no positive obligation on the intermediary community to report their clients for suspected breaches of FATA, but there are penalties for intermediaries who facilitate non-compliance.\footnote{Ms Robinson, Department of the Treasury, \textit{Committee Hansard}, Canberra, 12 September 2018, p. 3.}

3.62 Mr Konza was not aware of any particular obligations of intermediaries to report their clients for breaching of foreign investment obligations.

The obligation falls on the purchaser and then they owe professional obligations to their client to ensure that they don’t lead their client into breaking the law. So they have a secondary responsibility.\footnote{Mr Konza, ATO, \textit{Committee Hansard}, Canberra, 12 September 2018, p. 2.}

3.63 Ms Robinson of the Treasury added that the reforms that were introduced in 2015 strengthened the regulation of investment in real estate. She noted that there are other government agencies who are investigating intermediary obligations through the anti-money laundering regime.\footnote{Ms Robinson, Department of the Treasury, \textit{Committee Hansard}, Canberra, 12 September 2018, p. 3.}

3.64 She added further that reforms in this area may be taken into account as FATA is modernised in the future. There is no specific proposal to do so at this time, but ‘it is the kind of thing we would put on our list.’\footnote{Ms Robinson, Department of the Treasury, \textit{Committee Hansard}, Canberra, 12 September 2018, p. 3.}

3.65 Mr Konza stated there is regulation against assisting a client in the avoidance of foreign investment obligations but creating a law requiring a positive obligation on intermediaries to report their clients would be a matter for government to legislate on.\footnote{Ms Robinson, Department of the Treasury, \textit{Committee Hansard}, Canberra, 28 November 2018, p. 1.}

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\footnote{Mr Konza, ATO, \textit{Committee Hansard}, Canberra, 12 September 2018, p. 2.}
In response to questions asked on notice, the ATO reported that since May 2015, 1,536 referrals have been received from the broader community.\(^{50}\)

Community referrals are largely provided anonymously and the ATO does not keep information about the source of these referrals. Although there is some anecdotal evidence of referrals coming from the intermediary community, the ATO stated that referrals often relate to neighbouring properties where members of the community have suspicions about a potential breach of the FATA after an auction or purchase.\(^{51}\)

**Communication Strategies**

In September 2015, the ATO developed a communication strategy for foreign investment in both residential and agricultural real estate which targets foreign investors and the intermediary community through a variety of methods. These include:

- Social media posts and webpages
- In person education and engagement activities
- A foreign investment telephone line and email inbox
- Other specialist channels\(^{52}\)

These communication strategies are revised on a yearly basis in order to reflect changes in legislation and foreign investor’s obligations.\(^{53}\)

The ANAO stated that there is some misalignment between the ATO’s risk assessment and risk treatment plans and its communication strategies which the ATO should consider addressing:

- The ATO and FIRB websites should be identified as part of the risk assessment and risk treatment plans
- The ‘key agent program’ should be a part of the communication strategy\(^{54}\)

The ATO has webpages that provide information about the obligations of foreign investors under the Act both before and after the purchase, as well as changes of circumstances and what to do in the case of a breach. These

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\(^{50}\) ATO, *Submission 1: 1*, p. [1].  
\(^{51}\) ATO, *Submission 1: 1*, p. [1].  
\(^{52}\) ANAO Report No. 48 (2017-18), p. 37.  
\(^{54}\) ANAO Report No. 48 (2017-18), p. 38.
websites contain simplified information which links to more complex
information on the Foreign Investment Review Board’s website, and also has
links to Chinese language information sheets.\footnote{ANAO Report No. 48 (2017-18), p. 39.}

3.72 The ATO also has webpages primarily aimed at the intermediary
community that were used to provide information about foreign investment
obligations. These have not been used since early 2016.\footnote{ANAO Report No. 48 (2017-18), p. 39.}

3.73 At the time of changes in the foreign investment regime, the ATO used a
variety of social media platforms to provide information about the changes.
However, since 2016 the ATO has not used social media posts in relation to
this matter.\footnote{ANAO Report No. 48 (2017-18), p. 41.}

3.74 The ANAO suggested that the ATO would benefit from undertaking a
broader evaluation of their communication program regarding residential
foreign investment.\footnote{ANAO Report No. 48 (2017-18), p. 44.}

\textit{ATO Response}

3.75 The ATO contends that it has undertaken significant work to identify the
risks associated with foreign investment into residential real estate and has
developed treatment plans for those risks.\footnote{ATO, Submission 1, p. 5.}

3.76 Since the ATO was delegated the responsibility for foreign investment in
residential real estate, the following compliance actions have occurred:

- 3,940 investigations were completed in the period from May 2015 to
  January 2018, resulting in 1,158 breaches
- 1,067 financial penalties were imposed, worth a total of $5.5 million
- 75 forced disposal orders were given for foreign property owners not in
  compliance with the framework
- 156 voluntary disposals of properties by foreign investors occurred as a
  result of ATO investigations
- The total worth of these compulsory and voluntary disposals was $284.9
  million
Working with the Australian Government Solicitor and other external counsel, a litigation program has been established in order to apply civil and criminal penalties for investors in breach.\(^\text{60}\)

3.77 Despite this, the ATO agreed with the ANAO’s recommendation and has commenced work in creating a compliance and enforcement strategy.\(^\text{61}\)

3.78 The compliance strategy will be implemented through three deliverables:

1. Designing the strategy by drawing from the ATO’s existing risk assessment and treatment plans for foreign investment and assessing past compliance plans
2. Consulting with the Department of Treasury and other key stakeholders
3. Implementing the strategy, including educating foreign investors and the intermediary community through ‘communication strategies’ about the ATO’s approach to managing compliance. These activities will be monitored to assess their effectiveness.\(^\text{62}\)

3.79 The ATO plans to have the ANAO’s recommendation to design a compliance and enforcement strategy implemented by March 2019.\(^\text{63}\)

3.80 Regarding communication activities, the ATO has made the following changes since the ANAO’s report was published:

- It has published guidance about new vacancy fees for foreign ownership on its website, supported by social media posts and live webinars
- It has also started a large education campaign targeting intermediaries with both in person and telephone meetings to update them on the FIRB processes.\(^\text{64}\)

Detection and Investigation

3.81 The ANAO examined whether the ATO’s detection and investigation activities were effective at finding non-compliance with foreign investment reporting obligations.\(^\text{65}\)

\(^{60}\) ATO, Submission 1, p. 5.

\(^{61}\) ATO, Submission 1, p. 3.

\(^{62}\) ATO, Submission 1, p. 6.

\(^{63}\) ATO, Submission 1, p. 6.

\(^{64}\) ATO, Submission 1, p. 9.

\(^{65}\) ANAO Report No. 48 (2017-18), p. 45.
3.82 It found that while the ATO had established a data matching program to find non-compliance, more work was required as the program had not addressed all of the key compliance risks.  

3.83 Mr Konza of the ATO stated that when the ATO received the functions of the foreign investment regime, they also received the agricultural land register and water rights register, which had created a huge amount of work for the Department. He said:

…there probably is a need for us, going forward, to put in a more strategic approach to what we’re doing. But there were a tremendous number of applications received when the new regime came in… so we had to put on a workforce and create processes to properly screen those.  

3.84 Foreign investment in residential real estate screening was delegated to the ATO in December 2015. The ANAO did not include a review of these screening processes as a part of the audit.  

3.85 For the period 2016-17, the ATO screened over 13,000 foreign investment applications worth a proposed $25 billion.  

3.86 For the period from May 2015 to January 2018:

- 4,258 cases of potential non-compliance were reported to the ATO
- 3,940 cases were investigated by the ATO and closed
- 318 cases remain open at 31 January 2018  

3.87 The ATO receives information about non-compliance from a number of sources:

- Self-disclosure – notifications from property purchasers who have breached FATA
- Community referral – notifications from the public of suspected breaches
- Other referral – notifications from other external and internal ATO sources, such as ATO business lines, local and State government officials and other government departments

67 Mr Konza, ATO, Committee Hansard, Canberra, 28 November 2018, p. 4.
68 ATO, Submission 1, p. 4.
69 ATO, Submission 1, p. 4.
70 ANAO Report No. 48 (2017-18), p. 46.
FOREIGN INVESTMENT OBLIGATIONS IN RESIDENTIAL REAL ESTATE

- Screening infringement – notifications from foreign investors who advise the ATO they have entered into unconditional contracts prior to seeking approval
- Breach monitoring – the ATO’s monitoring of people who have already breached the framework
- Data matching – the ATO’s internal program which compares data from Government departments, State and Territory governments and the private sector

Data Matching

3.88 Although most non-compliance is found through referrals or self-disclosure, data matching is the ATO’s primary method of actively detecting breaches of foreign ownership regulations.

3.89 Mr Konza stated that the data-matching process is currently manual but there are plans to automate it in the future. ‘In the medium term’ the ATO hopes to increase the amount of voluntary compliance with the regime.

3.90 The ATO is developing data-matching rules in order to detect non-compliance and has identified 32 potential rules which are currently in varying stages of development. Of these, there are nine rules under development to detect serious compliance risks.

3.91 The ATO advised in April 2018 that it would assess the likely magnitude of non-compliance when it had finished implementation and there was a reliable data set to draw from.

3.92 Mr Konza said the ATO could not provide an estimate when it would be able to determine the level of non-compliance with the foreign investment regime.

3.93 The Auditor-General stated it would take another few years before the ATO could provide accurate estimates of non-compliance.

73 Mr Konza, ATO, Committee Hansard, Canberra, 12 September 2018, p. 6.
76 Mr Konza, ATO, Committee Hansard, Canberra, 28 November 2018, p. 2.
77 Mr Hehir, ANAO, Committee Hansard, Canberra, 28 November 2018, p. 2.
3.94 Although intermediaries were identified as potential compliance risks in the ATO’s own risk assessment (see above), including in the areas of organised crime, facilitating money-laundering, and other financial crimes, it has not developed relevant data matching rules targeted at intermediaries.⁷⁸

3.95 The ANAO’s second recommendation, which was agreed to by the ATO, was that:

The Australian Taxation Office prioritises developing and finalising data matching rules to address key compliance risks to foreign investment in residential real estate.⁷⁹

**Non-compliance processes**

3.96 The ANAO found the ATO has a largely effective non-compliance program for the foreign investment regime. It identified that the issue going forward for the ATO will be dealing with more serious, wilful non-compliance, and the imposition of civil and criminal penalties.⁸⁰

3.97 The ATO applies priority levels to cases of potential non-compliance based on the source of information. The priorities from highest to lowest are:

1. Self-disclosure
2. Non-community referrals (eg from media reports, Members of Parliament, the Inspector General of Taxation etc)
3. Data matching cases with an expected disposal outcome, cases with time limits
4. ‘Data matching cases with an expected retrospective approval outcome’
5. Community referrals⁸¹

3.98 However, these rankings do not reflect the cases which have resulted in investigations with higher levels of non-compliance findings. Application screenings represented 48.7 per cent of investigations which resulted in a penalty, 40.5 per cent for data matching and 39.3 per cent for self-disclosure.⁸²

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⁸¹ ANAO Report No. 48 (2017-18), pp. 50-51.
3.99 From May 2015 to January 2018, 29.4 per cent of cases investigated by the ATO found breaches had occurred. Of these breaches, a majority (70 per cent) were for a failure to seek FIRB approval before entering into a contract, and 30 per cent were for breaches of approval conditions.\(^{83}\)

3.100 As the total amount of non-compliance is not known by the ATO, it is unknown what portion of total breaches these investigations make up.\(^{84}\)

3.101 In cases where non-compliance is found, the ATO has the following penalties:
- Financial penalties
- Disposal Orders
- Civil and criminal penalties\(^{85}\)

3.102 At the time of the Audit report, no penalties had been issued to intermediaries or property developers, only to foreign investors. Total financial penalties for non-compliance were $5.5 million for the period May 2015 to January 2018.\(^{86}\)

3.103 Disposal procedures have resulted in 231 foreign owned properties being sold, with a total value of $284.9 million. Of these, 26 were as a result of disposal orders, 49 were concessional disposals as a result of an amnesty period, and 156 were self-divested.\(^{87}\)

3.104 The ATO has not applied any criminal or civil penalties for breaches of the FATA regime to date.\(^{88}\)

3.105 The ATO and Treasury were questioned at public hearings about non-compliance processes, and in particular about the lack of civil and criminal penalties imposed.

3.106 Ms Sophie Lewis stated the relatively short time period the ATO has had conduct of the foreign investment regime accounts for the lack of civil and criminal penalties. She also stated that the majority of breaches occur from individuals who do not fully understand their obligations under the Act, though the ATO is looking to impose stronger penalties on more egregious 

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\(^{83}\) ANAO Report No. 48 (2017-18), pp. 52-53.

\(^{84}\) ANAO Report No. 48 (2017-18), p. 53.


\(^{87}\) ANAO Report No. 48 (2017-18), p. 56.

\(^{88}\) ANAO Report No. 48 (2017-18), p. 56.
breaches and has recently ‘escalated’ a number of cases to the Australian Government Solicitor to endorse.  

3.107 Mr Konza reiterated the difficulty of prosecuting breaches of the foreign ownership regime, though he conceded the community may feel more confident if prosecutions could be seen to be happening. He added though that forced disposal of property is a significant penalty, due to the time constraints for disposal under the Act.

3.108 Mr Konza gave an example of recent potential litigation. In that case, the ATO found that the ‘front person’ being used to bypass foreign ownership obligations was an elderly person with limited literacy and English language skills. The ATO received advice that the prospects of success at litigation were poor and decided not to pursue the case.

3.109 He said further that the prosecution process can be slow, also saying:

> I can recall other contexts where the ATO has been criticised for failure to get prosecutions and then, three or four years after the event, suddenly 30 or 40 have come through. That’s the nature of the prosecution process.

3.110 Mr Konza stated the ATO has four investigations on foot currently.

3.111 Although there has not been a penalty imposed by the Courts, the ATO has issued $7 million in penalties for non-compliance and has recently established a foreign investment litigation section to look into possible civil and criminal penalties.

3.112 Ms Robinson stated that some criminal behaviour around foreign investment might be caught by other regimes, such as money laundering offences being pursued by the ATO and Australian Federal Police.

3.113 Before the regime introduced in December 2015, the only penalty available to the ATO for people in breach of FATA was disposal of property. Under

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89 Ms Lewis, ATO, *Committee Hansard*, Canberra, 28 November 2018, pp. 4-5.

90 Mr Konza, ATO, *Committee Hansard*, Canberra, 28 November 2018, p. 5.


95 Ms Robinson, Department of the Treasury, *Committee Hansard*, Canberra, 28 November 2018, p. 5.
the new regime, the ATO has the capacity to require the breaching party to pay over capital gain made on disposing of the property as well.96

3.114 Since 1 December 2015, 36 properties have been divested by foreign investors as a result of ATO compliance orders. The ATO provided details of 20 of these divestments and found:

- 10 property divestments resulted in a gain and 10 resulted in a loss
- The total capital gain for the 10 profitable sales was $1.13 million
- ‘The highest capital gain was $338,500, the largest capital loss was $500,000’97

3.115 The ATO stated in response to questions on notice:

The ATO has not yet sought a court-imposed civil penalty for a contravention of the Act, including to recover a capital gain amount made by a foreign person who has been forced to dispose of their property.98

3.116 Ms Lewis confirmed that the ATO has the power to issues penalties to intermediaries and property developers but has not yet issued any.99 Any offence by an intermediary would be only in facilitating the investor’s breach.100

3.117 The ATO works with intermediaries who have been ancillary to breaches to ensure they understand their and their client’s obligations in the future.101

3.118 Mr Konza stated that there is a need to prove that intermediaries had intention or were reckless or negligent in their conduct when pursuing prosecution. These matters require investigation and are often hard to prove from an evidentiary standpoint. 102

3.119 The ATO can require a potential foreign buyer to show the source of the funds they plan to use to buy property. Mr Konza stated that the ATO has

96 Mr Konza, ATO, Committee Hansard, Canberra, 28 November 2018, p. 5.
97 ATO, Submission 1: 3, p. [1].
98 ATO, Submission 1: 3, p. [1].
99 Ms Lewis, ATO, Committee Hansard, Canberra, 28 November 2018, p. 5.
100 Ms Robinson, Department of the Treasury, Committee Hansard, Canberra, 28 November 2018, p. 6.
101 Ms Lewis, ATO, Committee Hansard, Canberra, 28 November 2018, p. 6.
102 Mr Konza, ATO, Committee Hansard, Canberra, 28 November 2018, p. 6.
used this power in the past and has had success with it in preventing purchases which would be in breach of the regime.  

3.120 Mr Konza stated the ATO will continue to work hard on the issues of non-compliance and the use of ‘front persons’ but the extent of their existence in Australia may be unknowable ‘because it is a fraud…it’s built on telling us the wrong thing.’

**Beneficial Ownership of Foreign Property**

3.121 Concerns were also raised at the public hearings about beneficial ownership of property and whether this could be used to avoid obligations under the FATA, as well as the ATO and Treasury’s plans to investigate these matters.

3.122 Mr Andrew Morris of the ANAO stated that there were some data-matching rules which had not been completed at the time of the audit, one of which was on beneficial ownership. The ATO was working towards completing this process at the time of the audit.

3.123 Ms Sophie Lewis of the ATO stated that Treasury have assisted the ATO in this area. In cases where companies are buying residential property, the ATO will look at the board of directors and their nationality to determine where the beneficial ownership is originating from.

3.124 Mr Robinson enlarged on this point, saying there are strong tracing provisions and information-gathering powers in the foreign investment regime. If information about beneficial ownership is not provided voluntarily then the Treasury and ATO can compel that information.

3.125 Further to this, the ATO has well established arrangements with the AUSTRAC database for sharing information and Treasury has arrangements with intelligence and crime agencies. These assist both agencies in identifying money-laundering or other criminal activity. As FATA is jointly administered by both the Treasury and the ATO, some screening is done through one agency, and some through the other.

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105 Mr Andrew Morris, Executive Director, Performance Audit Services Group, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 12 September 2018, pp. 4-5.
3.126 In response to questions on notice the ATO further outlined how they determine beneficial ownership of properties purchased by foreign companies, stating:

The tracing provisions in section 19 of the Foreign Acquisitions and Takeovers Act 1975 (FATA) ensure that the FATA cannot be avoided by having an Australian incorporated company with foreign beneficial ownership. The tracing provisions mean that foreignness may be traced back through the ownership structure of applicants.109

3.127 The ATO will not issue a foreign investment approval until it has determined the beneficial owners of the property and it is satisfied there are no ‘unmitigated national interest issues.’110

3.128 If the ATO determines foreign investment approval was obtained though fraud or misrepresentation then the approval may not be valid and compliance action may be taken.111

Locations of breaches

3.129 In public hearings, the ATO and Treasury were questioned about the location and frequency of breaches of the foreign investment regime on a state and postcode level.

3.130 In response to questions on notice, the ATO provided a table showing the number of breaches, broken down by State or Territory and percentage of total breaches.112 This table is reproduced in Table 3.1, below:

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109 ATO, Submission 1: 1, p. [3].
110 ATO, Submission 1: 1, p. [3].
111 ATO, Submission 1: 1, p. [3].
112 ATO, Submission 1: 2, Answer to Questions on Notice, p. [1].
Table 3.1 Breaches by State identified by the ATO

<table>
<thead>
<tr>
<th>State</th>
<th>Number of breaches</th>
<th>Per cent of total breaches</th>
<th>Per cent of total FIRB applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIC</td>
<td>877</td>
<td>55</td>
<td>42</td>
</tr>
<tr>
<td>NSW</td>
<td>321</td>
<td>20</td>
<td>29</td>
</tr>
<tr>
<td>QLD</td>
<td>234</td>
<td>15</td>
<td>18</td>
</tr>
<tr>
<td>WA</td>
<td>108</td>
<td>7</td>
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<td>ACT</td>
<td>8</td>
<td>0.5</td>
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<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>1580</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Australian Taxation Office (ATO), Submission 1.2, Answer to Questions on Notice, p. 1.

3.131 The ATO also provided a full list of foreign investment obligation breaches, broken down by post code. It showed that of the top twenty postcodes where breaches had occurred, 18 were in Victoria.\(^{113}\)

3.132 There were concerns at public hearings about the high level of breaches which had occurred in Victoria as compared to other states and the possible reasons for this.

3.133 Ms Sophie Lewis of the ATO explained that the number of breaches in the States was in proportion to the number of applications received. She added that a breach may not necessarily indicate money laundering or other criminal activity. The breaches listed would also include breaches of approval conditions. There could also be a lack of education around the issue in certain areas, leading to an investor not attempting to get approval.\(^{114}\)

3.134 Ms Lewis could not provide an answer for why foreign investors were more likely to invest in Victoria than other States.\(^{115}\)

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\(^{113}\) ATO, Submission 1: 2, p. [2].

\(^{114}\) Ms Lewis, ATO, Committee Hansard, Canberra, 28 November 2018, pp. 2-3.

\(^{115}\) Ms Lewis, ATO, Committee Hansard, Canberra, 28 November 2018, p. 3.
3.135 Ms Jessica Robinson of the Treasury made note that New South Wales was one of the first jurisdictions to amend its legislation to bring its definition of ‘foreign person’ in line with FATA, which could account for their lower level of breaches.\(^{116}\)

3.136 She also said that higher levels of community education around the issue might lead to more applications and less breaches of the regime. \(^{117}\)

3.137 Contrary to this though, Western Australia and South Australia have very small numbers of breaches, despite not having legislated on the issue at all. (See 3.40 – 3.41 above)

### Monitoring and Reporting

3.138 Audit Report 48 examined the ATO’s and Treasury’s monitoring and reporting on compliance with the FATA regime and found that both Departments have strategies in place which are largely effective.\(^{118}\)

3.139 The ATO has 20 success indicators for foreign compliance which it measures for internal communication and compliance processes. The ANAO found the following:

> …the ATO has not yet used the results to broadly assess its effectiveness in managing the overall compliance risk that ‘failure of foreign persons to comply with residential real estate foreign investment rules will undermine the integrity of the foreign investment framework and community confidence’. Similarly, Treasury has not measured effectiveness in achieving the stated policy intent of encouraging foreign investment in new residential dwellings.\(^{119}\)

3.140 The ANAO suggested the following improvements:

- That future reports could delineate between compliance activities conducted on agricultural investments and those activities conducted for residential real estate\(^ {120}\)
- That the ATO improve their internal and external reporting and their ability to assess the effectiveness of compliance processes by establishing targets and baselines\(^ {121}\)

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\(^{116}\) Ms Robinson, Department of the Treasury, *Committee Hansard*, Canberra, 28 November 2018, p. 3.

\(^{117}\) Ms Robinson, Department of the Treasury, *Committee Hansard*, Canberra, 28 November 2018, p. 3.

\(^{118}\) ANAO Report No. 48 (2017-18), p. 60.


\(^{120}\) ANAO Report No. 48 (2017-18), p. 65.
That Treasury report on whether the Federal Government policies about foreign investment in residential property have been met ‘particularly with regard to the increase in new housing stock’122

That the ATO could improve their reporting by including the value of fees for disposal123

That the ATO move to releasing their data on a quarterly basis in order to allow faster analysis of emerging trends. The slow release of public reporting has been noted by stakeholders124

3.141 The ATO advised in April 2018 that a lack of historical information had limited its assessment of effectiveness, but it will consider establishing baselines to allow trends to be measured going forward.125

Other matters

3.142 The Law Council of Australia submitted to the Committee that it has become aware of issues where large amounts of residential land are acquired by commercial investors who are also foreign investors.126

3.143 It stated that the ATO’s residential screening unit is not geared towards complex commercial transactions, particularly complex residential transactions involving commercial investors.127

3.144 The Law Council suggested that large commercial residential transactions involving sophisticated foreign investors be screened by the ATO’s commercial screening unit.128

3.145 Ms Lewis of the ATO confirmed that it has adopted the Law Council’s suggestion.129

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124 ANAO Report No. 48 (2017-18), p. 64.
127 Law Council of Australia, Submission 2, pp. 1-2.
128 Law Council of Australia, Submission 2, p. 2.
129 Ms Lewis, ATO, Committee Hansard, Canberra, 28 November 2018, p. 9.
Senator Dean Smith
Chair
21 March 2019
A. Terms of Reference and JCPAA Role

Terms of Reference: Audit Report No. 24 (2017-18)

Any items, matters or circumstances connected with the following Auditor-General report:


The inquiry may consider all matters raised in the Audit Report including:

- equity investment, concessional loans and contingent liabilities, and the applicable budget, accounting and valuation rules
- significant and moderate findings for NDIA
- management of IT controls

Background

Having considered Auditor-General Report 17-50 (2017-18) on 27 June 2018, the Joint Committee of Public Accounts and Audit resolved to conduct an inquiry based on the above Auditor-General report.

Under section 8(1) of the legislation establishing the JCPAA, the Public Accounts and Audit Committee Act 1951, one of the duties of the Committee is to ‘examine all reports of the Auditor-General (including reports of the results of performance audits) that are tabled in each House of the Parliament’ and ‘report to both Houses of the Parliament, with any comment it thinks fit, on any items or matters in those … reports, or any circumstances connected with them, that the Committee thinks should be drawn to the attention of the Parliament’.
Terms of Reference: Audit Report No. 24 (2017-18)

Any items, matters or circumstances connected with the following Auditor-General report:

- No. 48 (2017-18) Compliance with Foreign Investment Obligations for Residential Estate

JCPAA Role

The purpose of the Joint Committee of Public Accounts and Audit (JCPAA) is to scrutinise the governance, performance and accountability of Commonwealth entities and companies—focusing on whether public money is used in an efficient, effective, economical and ethical manner. The JCPAA is therefore the Parliament’s joint public administration committee.

The Committee’s powers are contained within the Public Accounts and Audit Committee Act 1951. The Committee examines all reports of the Auditor-General, adopting inquiries, including thematic inquiries, based on specific audit reports. In adopting inquiries based on audit reports, the Committee considers:

- the significance of the program or issues raised in audit reports
- the audited agencies response to the audit
- the potential public interest benefits in conducting an inquiry

The Committee examines a broad range of evidence. In addition to the ANAO reports, the Committee receives submissions from audited agencies and the public, and conducts public hearings. The Committee also considers relevant public sector frameworks and findings of other relevant reviews, reports and audits. In particular, the Committee references the relevant sections of the Public Governance, Performance and Accountability Act 2013 (PGPA Act), PGPA Rule 2014, and associated resource management guidance. As the primary piece of Commonwealth resource management legislation, the PGPA Act establishes a single system of governance and accountability for public resources.
B. ANAO Conclusions and Recommendations


The primary purpose of financial statements is to provide relevant and reliable information to users about a reporting entity’s financial position. In the public sector, the users of financial statements include Ministers, the Parliament and the community. ‘The objectives of a financial statements audit in the public sector are often broader than expressing an opinion whether the financial statements have been prepared, in all material respects, in accordance with the applicable financial reporting framework. The audit mandate, or obligations for public sector entities, arising from legislation, regulation, ministerial directives, or government policy requirements may result in additional objectives’.

The ANAO applies these objectives in undertaking financial statements audits and considers areas that may give rise to risks of non-compliance with authorities or risks relating to effectiveness of internal control when planning and performing the audit.

The preparation of timely and accurate audited financial statements is also an important indicator of the effectiveness of an entity’s financial management, which fosters confidence in an entity on the part of users.

This report provides a summary of the results of the final audits of the financial statements of Australian Government entities and the Consolidated Financial Statements as at 30 November 2017. These audit results have been reported to the responsible Minister(s) and those charged with governance of each entity.

Consolidated Financial Statements
The Consolidated Financial Statements present the consolidated whole of government financial results inclusive of all Australian Government controlled entities, as well as the General Government Sector financial report. The 2016-17 Consolidated Financial Statements were signed by the Minister for Finance on 27 November 2017 and an unmodified auditor’s report was issued on the same day.

Financial Audit Results

The Auditor-General and senior staff under delegation also issued auditor’s reports on 233 entities’ 2016-17 financial statements up until 30 November 2017. All auditors’ reports were unmodified. Ninety-one per cent of entities required to table an annual report in Parliament were provided with the auditor’s report within three months of the financial year end. The average time taken for entities to table annual reports from the date the auditor’s report was issued was 47 days (Audit Report No. 24, p. 9)

Audit Report No. 48 (2017-18), Managing Compliance with Foreign Investment Obligations for Residential Real Estate

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. (Audit Report No. 48, p. 8)

**Recommendation No. 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.

Australian Tax Office’s response: Agreed

**Recommendation No. 2**

The Australian Taxation Office prioritises developing and finalising data matching rules to address key compliance risks to foreign investment in residential real estate.

Australian Tax Office’s response: Agreed

(Audit Report No. 48, p. 11)
C. Submissions

Commonwealth Financial Statements – Inquiry based on Auditor-General’s report No. 24 (2017-18)

1 National Disability Insurance Agency
2 Department of Finance
   ▪ 2.1 Supplementary to submission 2
   ▪ 2.2 Supplementary to submission 2
   ▪ 2.3 Supplementary to submission 2
   ▪ 2.4 Supplementary to submission 2

3 Australian National Audit Office
   ▪ 3.1 Supplementary to submission 3
   ▪ 3.2 Supplementary to submission 3

Foreign Investment Obligations in Residential Real Estate – Inquiry based on Auditor-General’s report No. 48 (2017-18)

1 Australian Taxation Office
   ▪ 1.1 Supplementary to submission 1
   ▪ 1.2 Supplementary to submission 1

2 Law Council of Australia

3 Australian National Audit Office
D. Public Hearings

Commonwealth Financial Statements – Inquiry based on Auditor-General’s report No. 24 (2017-18)

Wednesday, 22 August 2018

Committee Room 2R1, Parliament House, Canberra

Australian National Audit Office

Mr Grant Hehir, Auditor-General

Ms Serena Buchanan, Senior Executive Director, Assurance Audit Services Group

Ms Carla Jago, Group Executive Director, Assurance Audit Services Group

Ms Jane Meade, Group Executive Director, Professional Services and Relationships Group

Department of Finance

Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation

Mr Peter Gibson, Assistant Secretary, Budget Estimates and Accounting, Governance and APS Transformation

Ms Tracey Carroll, Acting First Assistant Secretary, Financial Analysis, Reporting and Management, Governance and APS Transformation

Wednesday, 19 September 2018

Committee Room 2R1, Parliament House, Canberra

Australian National Audit Office

Mr Grant Hehir, Auditor-General
Ms Serena Buchanan, Senior Executive Director, Assurance Audit Services Group
Ms Carla Jago, Group Executive Director, Assurance Audit Services Group
Ms Jane Meade, Group Executive Director, Professional Services and Relationships Group

Department of Finance

Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation
Ms Tracey Carroll, Acting First Assistant Secretary, Financial Analysis, Reporting and Management, Governance and APS Transformation
Mr Andrew Jaggers, Acting Deputy Secretary, Commercial and Government Services

Wednesday, 17 October 2018

Committee Room 2R1, Parliament House, Canberra

Parliamentary Budget Office

Ms Jenny Wilkinson, Parliamentary Budget Officer
Mr Colin Brown, First Assistant Parliamentary Budget Officer
Ms Linda Ward, First Assistant Parliamentary Budget Officer
Mr Potticary Lok, Director

Foreign Investment Obligations in Residential Real Estate – Inquiry based on Auditor-General’s report No. 48 (2017-18)

Wednesday, 12 September 2018

Committee Room 2R1, Parliament House, Canberra

Australian National Audit Office

Mr Grant Hehir, Attorney-General
Mr Andrew Morris, Executive Director, Performance Audit Services Group

Australian Taxation Office

Mr Mark Konza, Deputy Commissioner, Public Groups and International
Ms Sophie Lewis, Assistant Commissioner, Public Groups and International

Department of the Treasury
Ms Jessica Robinson, Principal Adviser

**Wednesday, 28 November 2018**

Committee Room 2R1, Parliament House, Canberra

*Australian National Audit Office*

Mr Grant Hehir, Auditor-General

Mr Andrew Morris, Executive Director, Performance Audit Services Group

*Australian Taxation Office*

Mr Mark Konza, Deputy Commissioner, Public Groups and International

Ms Sophie Lewis, Assistant Commissioner, Public Groups and International

*Department of the Treasury*

Ms Jessica Robinson, Principal Adviser