

The Senate

Economics
Legislation Committee

Annual reports (No. 2 of 2017)

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Chapter One

Introduction

1.1 The Senate Economics Legislation Committee (the committee) is responsible for examining the annual reports of the departments and agencies of the Industry, Innovation and Science, and Treasury portfolios.

1.2 This is the committee's second report on annual reports for 2017. Its purpose is to provide an overview of the relevant annual reports presented to the Parliament between 31 October 2016 and 30 April 2017 for the 2015–16 reporting period.

Terms of reference

1.3 Under Senate Standing Order 25(20) the annual reports of certain departments and agencies are referred to committees for examination. Each committee is required to:

- (a) examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory;
- (b) consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration;
- (c) investigate and report to the Senate on any lateness in the presentation of annual reports;
- (d) in considering an annual report, take into account any relevant remarks about the report made in debate in the Senate;
- (e) if the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates;
- (f) report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year;
- (g) draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- (h) report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

Allocated portfolios

1.4 The Senate allocated departments and agencies to committees on 13 November 2013.¹ In accordance with that resolution, the committee has responsibility for the oversight of the following:

- Industry, Innovation and Science Portfolio; and
- Treasury Portfolio.

Role of annual reports

1.5 Annual reports place a great deal of information about government departments and agencies on the public record. Accordingly, the tabling of annual reports is an important element of accountability to the Parliament, as the information provided in annual reports assists in the effective examination of the performance of departments and agencies, and the administration of government programs.

1.6 Together with Portfolio Budget Statements (PBS), Portfolio Additional Estimates Statements (PAES) and the Estimates process, annual reports are the primary mechanisms for scrutiny of the operations of government. Indeed, as highlighted in the *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-corporate Commonwealth Entities* (Requirements for Annual Reports or PM&C guidelines) released by the Department of the Prime Minister and Cabinet (PM&C), and approved by the Joint Committee of Public Accounts and Audit (JCPAA) under subsections 63(2) and 70(2) of the *Public Service Act 1999* (PS Act):

Annual reports serve to inform the Parliament (through the responsible Minister), other stakeholders, educational and research institutions, the media and the general public about the performance of departments in relation to services provided. Annual reports are a key reference document and a document for internal management. They form part of the historical record.²

...

Annual reports and PB Statements are the principal formal accountability mechanisms between government and departments and from departments through (or on behalf of) government to the Parliament.³

1 *Journals of the Senate*, No. 1, 13 November 2013, pp. 88–89.

2 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-corporate Commonwealth Entities* (Requirements for Annual Reports), 25 June 2015, paragraph 5(2).

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 25 June 2015, paragraph 6(1).

Annual reporting requirements

1.7 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which commenced on 1 July 2014, establishes a performance reporting framework for all Commonwealth entities and companies.

1.8 Section 46 of the PGPA Act sets out the annual reporting requirements in relation to non-corporate Commonwealth entities, including that annual reports must comply with any requirements prescribed by the PGPA Rule 2014. Section 97 sets out the annual reporting requirements for corporate Commonwealth entities.

1.9 The enabling legislation of some agencies may require that agency to report on matters other than those included in the PM&C guidelines, or impose different reporting requirements. The committee's view is that such agencies, while bound by their enabling legislation, should also comply with the PM&C guidelines, to the extent that the requirements do not conflict.

Reports referred to the committee

1.10 The first Report on Annual Reports for 2017 was tabled earlier this year on 22 March 2017.

1.11 Under Senate Standing Order 25(20)(f), the committee is required to report on the annual reports of departments and agencies tabled by 30 April each year by the tenth sitting day after 30 June of that year.⁴ This year that date is 6 September 2017.

1.12 This Report on Annual Reports also examines annual reports that were tabled after 30 April 2016 but before the tabling of this report.

Reports examined

1.13 During the period examined in this report, two annual reports of bodies or statutory office holders were presented to the Parliament and referred to the committee. The reports examined are categorised as follows:

Industry, Innovation and Science Portfolio

Statutory office holders

- Innovation Australia (independent statutory board)

Treasury Portfolio

Non-statutory bodies

- Foreign Investment Review Board

Additional reports referred to the committee

1.14 As the committee is not obliged to report on Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata, the following documents were referred to the committee for information only:

4 The Annual Reports tabled by 30 April each year are to be reported on by the committee by the tenth sitting day after 30 June of that year

Treasury portfolio

- Mid-Year Economic and Fiscal Outlook (MYEFO) 2016–17, dated 16 December 2016;
- Australian Taxation Office:
 - Low Income Superannuation Contributions—Quarterly Report—for the period 1 July 2016 to 30 September 2016—Section 12G of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
 - Low Income Superannuation Contributions—Quarterly Report—for the period 1 October 2016 to 31 December 2016—Section 12G of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
 - Low Income Superannuation Contributions—Annual Report—1 January 2017 to 31 March 2017—Section 12G of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
 - Super Co-contributions Quarterly Report—for the period 1 July 2016 to 30 September 2016—Section 54 of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
 - Super Co-contributions Quarterly Report—for the period 1 October 2016 to 31 December 2016—Section 54 of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
 - Super Co-contributions Quarterly Report—for the period 1 January 2017 to 31 March 2017—Section 54 of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
- Productivity Commission—Report no. 79—Regulation of Australian Agriculture, dated 15 November 2016;
- Productivity Commission—Report no. 80—National Education Evidence Base, dated 9 December 2016;
- Productivity Commission—Report no. 81—Marine Fisheries and Aquaculture, dated 19 December 2016;
- Productivity Commission—Report no. 82—Data Availability and Use, dated 31 March 2017;
- Productivity Commission—Report no. 83—Telecommunications Universal Service Obligation, dated 28 March 2017; and
- Review of the Australian Small Business and Family Enterprise Ombudsman—Inquiry into small business loans Report, dated 19 June 2017.

Timeliness

1.15 Senate Standing Order 25(20)(c) requires the committee to report to the Senate on the late presentation of annual reports.

Departments and PGPA Act entities

1.16 Section 46 of the PGPA Act, which applies to annual reports of Commonwealth entities, states that annual reports of departments and agencies must be provided to the responsible Minister by the 15th day of the fourth month after the end of the reporting period (generally, 15 October of the relevant year). The responsible Minister must, in turn, present the report to each House of the Parliament on or before 31 October in the year in which the report is given. Furthermore, if Senate Supplementary Budget Estimates hearings are scheduled to occur prior to 31 October, it is best practice for annual reports to be tabled prior to those hearings.⁵

1.17 Section 97 of the PGPA Act sets out the requirements for the provision of the annual reports of Commonwealth companies to the responsible Minister. Subsection 2 states that the company must give the reports and information by:

(a) if the company is required by the *Corporations Act 2001* to hold an annual general meeting—the earlier of the following:

(i) 21 days before the next annual general meeting after the end of the reporting period for the company;

(ii) 4 months after the end of the reporting period for the company; and

(b) in any other case—4 months after the end of the reporting period for the company;

or the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

1.18 Subsection 97(5) of the PGPA Act states that:

(5) If the Commonwealth company is a wholly-owned Commonwealth company, or is not required to hold an annual general meeting, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after receiving them. In all other cases, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after the annual general meeting of the company.

1.19 The provisions of subsections 34C(4)–(7) of the *Acts Interpretation Act 1901* (AIA Act) apply in relation to an application for extension of the period. An extension under the AIA Act would need to be sought where a specified timeframe not be met. However, it remains the government's policy that all annual reports should be tabled by 31 October.⁶

5 Department of the Prime Minister and Cabinet, Requirements for Annual Reports, 25 June 2015, p. 2.

6 Department of the Prime Minister and Cabinet, Requirements for Annual Reports, 25 June 2015, p. 2.

Other entities

1.20 Entities reporting in accordance with their own legislation are often required to prepare for the relevant Minister their annual report 'as soon as is practicable' after the end of the particular period to which the reports relates. The committee draws attention to subsections 34C(2) and 34C(3) of the AIA Act, which stipulate that where no date for providing a report to a Minister is specified, the report should be presented no more than six months after the reporting period, and the Minister must provide the report to the Parliament within 15 days after receipt by the Minister.

Timeliness of 2015–16 reports examined

1.21 The committee considers the timely presentation of annual reports to be an important element of accountability to the Parliament and continues to encourage bodies and statutory offices to endeavour to meet relevant timeframes.

1.22 Appendix 1 lists the annual reports tabled (or presented) in Parliament between 1 November and 30 April 2016 and referred to the committee with relevant tabling dates.

1.23 The committee notes that the two annual reports presented to the Parliament in this reporting period are subject to legislation other than the PGPA Act and must therefore comply with different reporting requirements.

1.24 Innovation Australia is an independent statutory board established under the *Industry Research and Development Act 1986* (IRD Act). Section 46 of the IRD Act states that:

The Board must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on its operations during that year.⁷

1.25 Section 46 of Innovation Australia's enabling legislation also refers to Section 34C of the AIA Act for further rules relating to annual reports. As described in paragraph 1.20, where no date for providing a report to a Minister is specified, the report should be presented no more than six months after the reporting period.

1.26 The committee notes that Innovation Australia's annual report was presented to the Minister on 24 February 2017, longer than six months after the end of the 2015–16 financial year. The committee encourages Innovation Australia to provide future annual reports in a timelier manner.

1.27 The Foreign Investment Review Board (FIRB) is a non-statutory body, established by the Minister.

1.28 The committee notes that FIRB does not have a legislative requirement to table an annual report and commends FIRB for continuing to report to the Parliament each year.

⁷ *Industry Research and Development Act 1986*, section 46.

Senate Debate

1.29 In accordance with Senate Standing Order 25(20)(d) the committee is required to take into account any relevant remarks about the reports made during debate in the Senate. The committee notes that none of the annual reports examined in this report have been the subject of comment or debate in the Senate.

Non-reporting bodies

1.30 Senate Standing order 25(20)(h) requires that the committee inquire into, and report on any bodies which do not present annual reports to the Senate but should present such reports.

1.31 The committee did not inquire or make any comment in relation to bodies that did not present an annual report to the Senate.

Apparently satisfactory

1.32 Senate Standing Order 25(20)(a) requires that the committee report to the Senate on whether the annual reports of departments and agencies in its portfolios are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as timeliness of presentation and compliance with relevant reporting requirements.

1.33 The committee has examined all annual reports referred under the Industry, Innovation and Science and Treasury portfolios during the reporting period and considers that they are apparently satisfactory.

Chapter Two

Review of selected reports

2.1 As noted in Chapter One, the committee was referred the annual reports of two bodies: Innovation Australia and the Foreign Investment Review Board (FIRB). This chapter will examine each of these reports in more detail.

Innovation Australia

2.2 Innovation Australia was established as an independent statutory board under the *Industry Research and Development Act 1986* (IRD Act). Its mission is:

To increase the economic return from successful technology-based enterprises in Australia by guiding the Australian Government's investment in the commercialisation of the nation's research and development and innovation.¹

2.3 The committee notes that on 20 October 2016, Innovation Australia became Innovation and Science Australia, as part of the government's National Innovation and Science Agenda.² Innovation and Science Australia continues Innovation Australia's role in assisting with administration and oversight of the Australian Government's industry, innovation and venture capital programmes delivered by AusIndustry.³

2.4 As detailed in Chapter One, Innovation Australia is not subject to the reporting requirements set out in the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). Rather, it must meet the reporting requirements as specified in its enabling legislation, the IRD Act.

2.5 The committee considers that Innovation Australia's 2015–16 Annual Report meets its reporting requirements under the IRD Act.

2.6 The Chair of Innovation Australia's Board is Mr Bell Ferris AC. His term as Chair commenced in November 2015 and will continue until November 2018.

2.7 Innovation Australia's report provided an overview of its activities during 2015–16. In particular, it highlighted the Prime Minister's announcement of the National Innovation and Science Agenda (NISA) in December 2015, commenting that this 'placed innovation at the centre of the Australian Government's policy agenda'.⁴

1 Innovation Australia Annual Report 2015–16, p. 5.

2 <https://industry.gov.au/Innovation-and-Science-Australia/Innovation-Australia/Pages/default.aspx>, accessed 21 August 2017.

3 <https://industry.gov.au/Innovation-and-Science-Australia/Innovation-Australia/Pages/default.aspx>, accessed 21 August 2017.

4 Innovation Australia Annual Report 2015–16, p. 6.

2.8 The report noted the strategic oversight role of Innovation Australia in implementing the 24 NISA Initiatives.⁵ It pointed to a number of particular achievements in this area, including the following:

- Establishment of the Office of Innovation and Science Australia;
- Legislation passed to establish tax incentives for 'angel' investors;
- Expansion of the Entrepreneur's Programme;
- Establishment of five 'Landing Pads' in Berlin, San Francisco, Shanghai, Singapore and Tel Aviv; and
- Design and implementation of the Biomedical Translation Fund and Business Research Innovation Initiative.⁶

2.9 Innovation Australia's report also commented on other work undertaken by the Board in 2015–16, noting its oversight of 'key innovation programmes' including the Research and Development (R&D) Tax Incentive, Cooperative Research Centres, and Venture Capital Limited Partnership and Early Stage Venture Capital Limited Partnership⁷

2.10 In considering the importance of the Board's work in a global context, the report noted that, 'without a holistic coordinated approach, Australia risks being left behind in a rapidly transitioning global economy'.⁸

Programme overview

2.11 The committee notes the clear and accessible format of the presentation of Innovation Australia's programme overview. The separate description and update on the progress of each programme, followed by a relevant case study, provides a context for understanding Innovation Australia's work across a number of different areas. In addition, each programme overview directs the reader to a related Appendix for further information.

2.12 For example, the programme overview of the R&D Tax Incentive Programme provides a succinct description of the purpose of the programme followed by a summary of the programme's achievements in 2015–16:

In 2015-16, the department continued to promote the R&D Tax Incentive with the release of additional customer guidance, as part of the programme administration outlined in the Integrity Assurance Framework. This included two specific issue guidance products, three guidance products in collaboration with the Australian Taxation Office (ATO) and a suite of

5 <https://www.innovation.gov.au/page/national-innovation-and-science-agenda-report> , accessed 22 August 2017.

6 Innovation Australia Annual Report 2015–16, pp. 7–8.

7 Innovation Australia Annual Report 2015–16, p. 9.

8 Innovation Australia Annual Report 2015–16, p. 9.

informative products (workshops, appraisals, bulletins et al.), including a redesigned web presence, to enable effective customer self-assessment and provide a strong foundation on which to achieve the programme's objectives.⁹

2.13 This section also noted the review of the R&D Tax Incentive, which was announced as part of the NISA in December 2015, and reported in April 2016.

2.14 A list of key outcomes is also provided:

- Increased R&D activity, demonstrated by a record 13,017 companies (representing 14,866 R&D-performing entities) registering for the R&D Tax Incentive for the 2014 15 income year.
 - This is an increase of over 1,000 registered R&D-performing entities (an increase of just under eight per cent) compared to the complete 2013 14 income year.
 - The most significant growth in the number of R&D-performing entities was in companies with an aggregated turnover of less than \$20 million (generally smaller businesses), which grew by 12 per cent.
 - For example, R&D expenditure by entities with a turnover less than \$20 million in 2014 15 (\$5.79 billion) has already eclipsed the amount for the previous income year (\$5.46 billion), with more registrations still to be received.
- 3,583 new registrants applied for the R&D Tax Incentive during the 2014 15 income year, an increase of just over eight per cent, compared to the same period in 2013 14.¹⁰

Governance

2.15 A dedicated section of the annual report also provided detailed information about Innovation Australia's governance, Innovation Australia's transition to Innovation and Science Australia.

2.16 The report noted that the *Industry Research and Development Amendment (Innovation and Science Australia) Bill 2016*, which legislated this transition was reintroduced in the 45th the Parliament and received royal assent on 20 October 2016, subsequent to the end of the 2015–16 reporting period.

General comments

2.17 The committee notes that, under its reporting requirements, Innovation Australia is not required to produce a compliance index. The committee also notes that Innovation Australia's report provides similar information to that required by

9 Innovation Australia Annual Report 2015–16, p. 14.

10 Innovation Australia Annual Report 2015–16, p. 14.

Commonwealth entities under the PGPA Act, and that the inclusion of an index listing the location of this information in the report could ease accessibility for the reader.

Foreign Investment Review Board

2.18 As noted in Chapter One, the Foreign Investment Review Board (FIRB) is a non-statutory body, established by the Minister and does not have a legislative requirement to table an annual report.

2.19 FIRB is an advisory board whose role is to make recommendations on foreign investment matters to the Treasurer and other Treasury portfolio Ministers. In particular, in relation to the national interest implications of investment proposals made under the *Foreign Acquisitions and Takeovers Act 1975*.

2.20 The Chair of the FIRB is Mr Brian Wilson. In his letter of transmittal of the report to the Treasurer, he noted that 2015–16 marked FIRB's 40th anniversary. He also highlighted the introduction of reforms designed to strengthen the foreign investment framework on 1 December 2015. He commented that 'these reforms represented the most substantial change to the framework during the Board's forty-year history'.¹¹

2.21 FIRB's annual report includes a page of 'Main Points' which summarise FIRB's principle achievements during the reporting period.¹²

Reforms

2.22 The annual report provided a summary of the key elements of the implemented reforms which included:

- increased enforcement of the residential real estate rules by establishing a dedicated unit within the Australian Taxation Office (ATO) to review cases and strengthen compliance;
- stronger sanctions and more flexible penalties to make it easier to pursue foreign investors that breach the rules;
- application fees to ensure that Australian taxpayers no longer have to fund the cost of administering the system;
- increased scrutiny around agricultural investments by lowering the applicable screening thresholds; and
- improved transparency through a comprehensive register of foreign ownership of agricultural land.¹³

11 Foreign Investment Review Board Annual Report 15/16, p. iii.

12 Foreign Investment Review Board Annual Report 15/16, p. vii.

13 Foreign Investment Review Board Annual Report 15/16, p. 6.

2.23 This section also commented that the reforms provided an opportunity to modernise FIRB's systems, clarifying the regime for investors.

Agricultural Land Register

2.24 The Agricultural Land Register was announced on 11 February 2015. It is designed to 'increase transparency around the level of foreign ownership of agricultural land' in Australia.¹⁴

2.25 The register was first reported on in September 2016. This report compiled data on the number of properties that are foreign owned and found that foreign investors had an interest in 13.6 per cent of Australia's agricultural land by area.¹⁵

2.26 Specifically, the report provided the following breakdown of the most significant foreign investment in Australian agricultural land:

- UK — 27.5 million ha (52.7 per cent of foreign-owned agricultural land, or 7.2 per cent of total agricultural land);
- USA — 7.7 million ha (14.8 per cent of foreign-owned agricultural land or 2 per cent of total agricultural land);
- Netherlands — 3.0 million ha (5.7 per cent of foreign-owned agricultural land or 0.8 per cent of total agricultural land);
- Singapore — 1.9 million ha (3.6 per cent of foreign-owned agricultural land or 0.5 per cent of total agricultural land); and
- China — 1.5 million ha (2.8 per cent of foreign-owned agricultural land or 0.4 per cent of total agricultural land).¹⁶

Foreign investment trends

2.27 FIRB's report included a chapter on foreign investment trends in Australia. This section noted that Australia has 'traditionally relied on inward foreign investment to meet the shortfall between domestic saving and domestic investment'.¹⁷ Further the report comments that foreign investment plays a significant role in driving economic growth, creating skilled jobs and opening Australia to overseas markets.

2.28 The report noted that at the end of December 2015, foreign direct investment (FDI) was \$735.5 billion. This figure is an increase of approximately \$43.9 billion compared with 2014.¹⁸

14 Foreign Investment Review Board Annual Report 15/16, p. 7.

15 Foreign Investment Review Board Annual Report 15/16, p. 7.

16 Foreign Investment Review Board Annual Report 15/16, p. 7.

17 Foreign Investment Review Board Annual Report 15/16, p. 9.

18 Foreign Investment Review Board Annual Report 15/16, p. 9.

2.29 FIRB noted that Australia has seen an increase in investment from Asia, in particular, more recently from China. The chart below shows where FDI stock in Australia is coming from, and highlights the top 5 investing countries: the United States, Japan, the United Kingdom, the Netherlands, and China.¹⁹



Chart 2.1: Stock of FDI in Australia by country as at 31 December 2015 (\$m)

2.30 In relation to the levels of FDI in Australia by selected industries FIRB noted that:

In recent times, the mining sector has been the main target industry for FDI, representing 40.1 per cent of total FDI stock in Australia at the end of 2015. However, the growth in FDI stock in the mining sector has slowed since the peak of the mining investment boom in 2011. In 2015, the stock of mining investment grew by 6.4 per cent, less than half the growth rate of 13.8 per cent in 2014.²⁰

2.31 FIRB's report also provided a timeline history of foreign investment in Australia. This is a particularly helpful tool for understanding the context and importance of FIRB's work over the last 40 years.

2.32 The layout of FIRB's annual report is clear and provides the reader with a succinct yet comprehensive summary of its activities in 2015–16.

¹⁹ Foreign Investment Review Board Annual Report 15/16, p. 10.

²⁰ Foreign Investment Review Board Annual Report 15/16, p. 11.

2.33 The committee again commends FIRB for reporting to the Parliament each year and encourages it to continue doing so.

Senator Jane Hume
Chair

Appendix 1

Dates relating to the presentation of annual reports between 1 November 2016 and 31 April 2017

Reporting Body	Submitted to Minister	Received by Minister	Tabled in the Senate or presented out of sitting (*)	Tabled in the House of Representatives
INDUSTRY, INOVATION AND SCIENCE PORTFOLIO				
Innovation Australia ¹	24/02/2017	24/02/2017	09/05/2017	30/03/2017
TREASURY PORTFOLIO				
Foreign Investment Review Board (FIRB) ²	29/03/2017	29/03/2017	13/06/2017	31/05/2017

1 Innovation Australia is an independent statutory board established under the *Industry Research and Development Act 1986*. The board is required to report to the Minister as soon as practicable after 30 June each year.

2 The Foreign Investment Review Board is a non-statutory body, established by the Minister. FIRB does not have any legislative requirement to table an annual report in the Parliament.

