



ASSISTANT TREASURER

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**PRESS
RELEASE**

GOVERNMENT TIGHTENS FOREIGN INVESTMENT RULES FOR RESIDENTIAL HOUSING

The Assistant Treasurer, Senator Nick Sherry, has today announced a major tightening of the foreign investment rules as they relate to residential real estate and a package of tough new civil penalty, compliance, monitoring and enforcement measures.

“The Rudd Government is acting to make sure that investment in Australian real estate by temporary residents and foreign non-residents, is within the law, meets community expectations and doesn’t place pressure on housing availability for Australians,” said the Assistant Treasurer.

“The new provisions announced today will mean that anyone trying to flout Australia’s strict foreign investment rules will face tough new penalties that will be fully enforced.”

Australia’s foreign investment regime relies on a combination of legislation, primarily the *Foreign Acquisitions and Takeovers Act 1975* (FATA), its related regulations, the *Foreign Acquisitions and Takeovers Regulations 1989* (Regulations) and an accompanying Government Policy (Policy). Each of these is administered by the Foreign Investment Review Board (FIRB).

Today’s announcement includes important amendments to each of the FATA, the Regulations and the Policy to ensure that foreign non-residents can only invest in Australian real estate if that investment adds to the housing stock, and that investments by temporary residents in established properties are only for their use whilst they live in Australia.

Changes to foreign investment in real estate rules

All temporary residents seeking to purchase an existing property in Australia will now be brought within the FIRB notification, screening and approval process.

Temporary residents will be required to notify, be screened or be approved by FIRB. Today’s changes ensure that temporary residents are subject to the same compulsory notification, screening and approval requirements required of foreign non-residents.

In addition, temporary residents who are approved will now have to:

- compulsorily sell the established property they have bought when they depart Australia; and
- be required, where undeveloped land has been purchased, to commence construction on that land within 24-months or have the land compulsorily sold.

“Over the last six months I have been undertaking a comprehensive series of consultations with the community and with industry, including talks in NSW, Victoria, Queensland, South Australia, Western Australia and Tasmania,” said the Assistant Treasurer.

“I have been examining whether features of the foreign investment in Australian real estate regime may need strengthening, and I have come to the conclusion that in some respects that is what is required.”

“This is particularly the case in relation to the arrangements for temporary residents.”

“International investment that boosts the numbers of houses available for people to rent is a good thing, and temporary residents living here should, within very strict rules, have the opportunity to buy a home – that’s how it’s always been under Governments of both persuasions.”

“But the rules have to be tough enough to make sure the system works in that way, and that’s what we’re delivering.”

“The reimposition of compulsory notification, screening and approval at the front end, and the forced sale of properties when temporary residents leave Australia, will ensure that investment is in Australia’s interests, and in line with community expectations..”

“These changes will also be strictly applied to temporary residents who are here on foreign student visas.”

Major additions to Australia’s investment regime

The Rudd Government will also work to put in place, for the first time, a full civil penalties regime that will apply to breaches of the foreign investment in Australian real estate regime. This will include a special penalty to recapture any capital gain made through an illegal purchase and sale of a property.

This will be complemented by a new national data-matching compliance monitoring program, a new 1-800 community hotline, measures to improve compliance by real estate agents and steps to ensure better enforcement outcomes.

“If you are a temporary resident or foreign non-resident investing in Australian real estate, or a real estate agent working in this area, your activities will be proactively monitored with top-of-the-line data-matching and this will be backed up by tough new civil penalties.”

“If you do the wrong thing, you will be found out.”

New civil penalty regime

Currently the FATA contains only a criminal penalty regime. This regime will be retained but will now be complemented by a comprehensive civil penalties regime, adding another important tool to act against non-compliant transactions.

“A tough new civil penalty regime, in addition to the current criminal sanctions, will make it easier to secure sanctions and should make anyone thinking of acting inappropriately think twice,” said the Assistant Treasurer.

As part of the new civil penalties regime, the Government will introduce:

- sanctions for purchasers, sellers and agents for being involved in transactions in breach of FATA;
- an explicit compulsory divestment requirement where property has been purchased in breach of the real estate investment regime; and
- an additional monetary penalty equivalent to any capital gain made by the breaching purchaser at the time of the forced sale, with the capital gain to be measured in accordance with the relevant tax legislation.

Expanded monitoring

FIRB will also undertake a significant new program of rolling three-way proactive data-matching using FIRB data, State and Territory lands and property office transactional data and Commonwealth Department of Immigration and Citizenship (DIAC) visa status data.

“I can confirm that we have already started this program through trials in Sydney and Melbourne,” said the Assistant Treasurer.

“FIRB has undertaken a pilot data-matching program between itself and both Land Victoria and the New South Wales Land and Property Management Authority, and we will now add a third leg to this process by incorporating Department of Immigration visa status data.”

“This will be rolled out nationally and FIRB has this week brought on board a data-matching and compliance specialist to spearhead this program.”

New 1-800 community hotline

In order to ensure improved reporting from the community of possible breaches of the regime, the Government has established a new 1800 Free Call phone line that members of the public can call directly with any information concerning possible breaches.

“I want to make sure everyone in the community has a direct line to report their concerns. This is very important and this new hotline will deliver that option,” said the Assistant Treasurer.

The number of the community hotline is 1-800-031-227.

Checks on real estate agents

“I have also become increasingly concerned that some real estate agents may be taking advantage of aspects of the regime, so I will be acting on that,” said the Assistant Treasurer.

“Today I have written to each State and Territory Minister with responsibility for the regulation of real estate agents in their jurisdiction, indicating that the FIRB will be seeking to form a formal Memorandum of Understanding with each state-level real estate agent regulator to significantly bolster levels of cooperation, interaction and compliance.”

“FIRB will also be producing an easy-to-read guide for the real estate industry setting out their obligations under the regime.”

Enforcement

The relationship between FIRB and the Director of Public Prosecutions will be also be significantly enhanced with both agencies commencing work on a detailed Memorandum of Understanding, focused on securing improved enforcement outcomes.

“I want to make sure that all arms of the Australian Government are working optimally together to secure prosecutions where breaches occur,” said the Assistant Treasurer.

“This is also the case with getting the maximum number of sanctions from the large amount of data that will now be available under our new proactive data-matching program.”

MELBOURNE

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