

Friday 6 March 2015

Manager

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By email: ForeignInvestmentConsultation@treasury.gov.au

Dear Treasurer,

Firstly, I would like to congratulate the Government for taking seriously the recent recommendations of the recent *Report on Foreign Investment in Residential Real Estate*. As you would be aware, the issues raised in the report are of great interest to the Australian public. The report and subsequent options paper represents an opportunity to ensure that we better manage the need, and function, of appropriate foreign investment.

While I agree in principal with the recommendations outlined in the *Strengthening Australia's Foreign Investment Framework Options Paper*, I suggest that the Government needs to consider going several steps further. I do however; recognise that the recommendations already go further than what was recommended in the *Report on Foreign Investment in Residential Real Estate*. Notwithstanding that fact, I make the following observations:

1. With respect to item 29, I agree that the Australian Taxation Office would be the department best placed to carry out the enforcement function that is currently lacking. The Australian Taxation Office has a strong history of carrying out enforcement measures and prosecuting accountable parties, where required. Indeed, the fact that the Foreign Investment Review Board has not made any significant conviction to-date is clear evidence that it is ill-equipped to carry out this function.
2. In response to consultation question 1a, I confirm that I agree fully that a new compliance and enforcement area is required to address concerns regarding compliance.
3. In response to consultation question 2a, I confirm that I agree fully that the Treasurer and the Australian Taxation Office will require the authority to obtain any and all information that relates to potential breaches of the foreign investment framework.
4. In item 33, it is recommended that any third party who knowingly assists a foreign investor to breach the framework should be held accountable via the same regime. As you would be aware, there are many agents and other parties who cater exclusively to foreign investors. While I expect that most of these agents and other parties to be engaged in practices that are

legal, I am of no doubt that there are some who are side-stepping the current framework, and therefore the same regime needs to apply to all parties involved in any foreign purchases.

5. With respect to the recommendations around the penalty regime, I believe these to be fair and reasonable and I fully support the proposed penalty structure.
6. Considering the fees structure proposed in item 43, I believe that this is entirely insufficient. As many have noted in the mainstream media over the past few days, a \$5,000 fee on a foreign property purchases up to \$1million dollars is not going to act as any kind of deterrent, nor is it likely to generate a substantial pool of funds for enforcement mechanisms. In this instance, I believe the fee should be calculated as a percentage of the purchase price. For example, a 10% fee on purchases under \$1million, decreasing to 7.5% over \$1million. The net effect of such a change would be twofold; one, it would decrease foreign investors purchasing power, thereby taking some of the heat out of the current market, while; two, it would act as a fee that could be used to fund enforcement mechanisms, as well as act as a pool of funds to maintain and upgrade infrastructure in the immediate area. An alternative would be to reconsider the proposed fixed fees and increase the current recommendations by a multiple of ten.
7. Regarding item 48 – off-the-plan purchases – I suggest that the aforementioned fees, rules and penalties apply to these types of purchases also. Indeed, it seems only fair that the fees, rules and penalties should apply across the board, no matter the type of property purchased.
8. A general comment I wish to make with respect to the options paper is that the Government should be seriously considering restricting temporary resident purchases to new builds only. I make this comment for a number of reasons, but not least, due to dwindling housing supply and the pricing effect this is having on new entrants to the housing market, particularly first home buyers. Indeed, by restricting temporary resident purchases to new apartments and houses only, the Government would have a net positive impact on the property market. For example, temporary resident purchases would drive the supply of new housing, thereby having a positive impact on the construction industry and economy more generally; meanwhile, increased supply would go some way to alleviating the current price pressures placed on first home buyers and owner occupiers.
9. I would also like to make a general comment that seems to not be properly considered in the options paper. It relates to foreign property purchases, by proxy. There is an overwhelming amount of anecdotal evidence to suggest that many foreign property purchases are made by family members and/or friends who either have permanent or temporary residency. This loophole will need to be addressed in conjunction with the proposed measures; else it simply allows foreign purchasers to continue side-step the rules.

Finally, the Government will no doubt receive a great deal of criticism from those invested in the foreign investment market, from agents to brokers and all those in between. I simply say to the Government, ignore the calls of those with a financial or material interest in maintaining the status

quo; if they 'have nothing to hide' then they need not be concerned about the recommendations outlined in the options paper. In fact, I believe that the recommendations will favour honest operators and improve the perceptions of Australian property abroad. Indeed, you and I could not simply purchase property in many countries, without facing some sort of fee.

Regards,

Aaron Klasen