

Response to Consultation Questions.

1. a. The Report of the House Economics Committee (the Report) concluded that the current arrangements for responsibility for this vital area were simply not effective. I support the creation of a new compliance and enforcement area in the ATO as proposed by the Consultation paper. The community's expectations that the FIRB should be enforcing existing regulations, were not being met.

2. b. I support the introduction of the application fees. The Report found that lack of FIRB activity was in part due to lack of resources. Feedback from some real estate agents say clients will regard the fees as a cost of doing business. Given the likelihood of the increasing level of foreign investment, a user pays principle seems to be fair.

It should be made clear to applicants that payment of fees will not result in automatic approval, and that checks and assessment will need to be carried out by the FIRB prior to approval to purchase.

5. I believe that the fees are not onerous. As well, the fact that the Consultation paper recommends a fee higher than that suggested by the Report indicates that the Government has listened to the community's concerns.

3. a. The previously voluntary process has not worked. The proposed application fees are seen by some as part of the cost of doing business. Therefore, a civil penalty scheme is a necessary deterrent. In the same way as the taxation system imposes penalties.

3. b, c, and c i. I support the proposal to extend accessorial liability as a necessary way to increase compliance. For example:

My own observations of my local area and my research in many sources over the last two to three years have made me concerned about particular activities of the real estate industry, which facilitate the purchase of established residential real estate by overseas buyers. It seems that estate agents either do not know the laws regarding this, or are not providing the right advice to overseas investors. Indeed, submissions to the House Economics Committee provided many examples of apparently irregular activity.

An additional approach in order to increase compliance would be to ensure that real estate agents know the rules, know the penalties and have the responsibility to give the right advice. Make this knowledge part of their professional accreditation so that lack of knowledge will be no defence.

The FIRB has recently prosecuted a case involving the purchase of a \$39m house in Sydney by an overseas investor. It was reported that associated agents, brokers, lawyers, and company directors, claimed not to know about the requirement for FIRB approval of the purchase.

4. I support the proposed extension of penalties to these other areas of investment.

7. I support the coverage proposed by this definition. Increasing concern about food security warrants this move.

13.b and c. Ideally, Australians should know who owns our country. I believe it is vital to know how and where money for property and business is flowing into and out of the country and what investment is in the national interest. I support the establishment of the foreign ownership of land register.

The Report indicated that comprehensive data is just not available. A consolidated approach is highly possible given the capabilities of technology.

Lawyers and conveyancers already have professional responsibility for dealing with confidential matters. An appropriate procedure could surely be devised in order for them to verify the status of overseas buyers. Any additional cost for this procedure would be part of the total cost of their services to the overseas investor.

In addition, I believe that other visa categories could be looked at to bring them into line with the proposed changes. For example, why does the student temporary visa allow the purchase of established real estate. Surely, other types of accommodation are more appropriate.

Christine Wells

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