

CHANGES TO FOREIGN INVESTMENT RULES RESIDENTIAL PROPERTY



On 24 April 2010 the Assistant Treasurer announced a tightening of the foreign investment rules relating to residential property. The changes include a package of penalties to ensure compliance.

The new legislation reverses the relaxation of foreign investment rules made last year. Those rules made it easier for foreign nationals to buy residential property in Australia and new dwellings and acquisitions by temporary residents, such as students and workers temporarily employed in Australia, did not require notification. The new situation is that from 24 April, all temporary residents must seek approval to purchase an existing property in Australia and they must sell that established property when they depart Australia. If vacant land is purchased construction must commence within 24 months of the acquisition or the land will be compulsorily sold.

The press release states that the new rules are designed to ensure that housing stock in Australia is available for residents and is not owned by former residents of Australia.

The Federal Government has also announced a full civil penalties regime for breaches of foreign investment rules. There is reference to a special penalty to capture any capital gain made through an illegal purchase and sale of a property. A new national data matching compliance monitoring program will be introduced to improve

compliance by real estate agents. The monitoring will provide data matching using FIRB data, State and Territory lands and property office transactional data and, Commonwealth Department of Immigration and Citizenship visa status data. Treasury indicated that trials were already underway in Sydney and Melbourne.

There will also be a free 1800 line so members of the public can call directly with any information about possible breaches.

We will issue a further eAlert when all details have been finalised in relation to:

- the changes to the rules
- how the penalty regime will operate
- the effect of the monitoring and
- how the memorandum of understanding between the FIRB and each State regulator has been settled.

These changes have particular impact on real estate agents and any temporary residents who bought property under the former less restrictive regime.

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