



## Recent Changes To The Foreign Investment Review Board Approval Process For Purchase Of Residential Property By Foreigners

*New changes to the Foreign Investment Review Board (FIRB) Regulations are expected to take place by late February or early March 2009. On 18 December 2008, the Assistant Treasurer announced administrative changes to the government's foreign investment screening arrangements for the purchase of residential property by foreigners.*

The changes which echo the recommendations of the 2006 Banks Taskforce, will streamline and update foreign investment screening for residential property purchases to reduce on costs for applicants, minimize the uncertainty and unnecessary delays in transactions, and remove the distortions between domestic and foreign investors.

The changes will be implemented progressively. Changes to policy will come into effect immediately. However changes to the FIRB Regulations will come into effect after the necessary amendments have been assented (which is expected to occur between late February and early March 2009).

The following policy changes will take effect from 18 December 2008:

1. Developers can (now) sell more than 50% of

new dwellings to foreign persons on an "off the plan" basis, provided the developers market locally and overseas. The term "new dwellings" includes dwellings that have not been sold, and dwellings which have been rented out (for 12 months or less).

2. Foreign companies can (now) purchase established dwellings for the use of their Australian based staff, provided that they sell or rent the dwelling if it is expected to remain vacant for more than 6 months. There is no limit as to the number of established dwellings which can be purchased, where this is required for employee accommodation.
3. Foreign owned companies, trusts and non-resident foreign persons which purchase single blocks of vacant residential land are required to build a dwelling within 24 months (previously 12 months). Likewise redevelopment of second hand dwellings by foreign persons must occur within 24 months (previously 12 months).
4. The definition of "temporary resident" includes all foreign persons living in Australia on a valid visa, including people on bridging visas. But this does not include short term visitors and tourists.
5. The \$300,000 limit on the value of an established dwelling purchased as principal place of residence (PPR) no longer applies to foreign students resident in Australia.

From late February or early March 2009, if the amendments to the FIRB Regulations are passed, the following changes will take effect:

6. More streamlined administrative procedures for foreign-owned companies, trusts and non-resident foreigners to notify and receive FIRB



approval for proposed acquisitions of vacant residential land, and newly constructed dwellings. New application forms and statutory notices will be introduced to work with the streamlined procedures.

7. Developers will no longer be issued advance approval for sales of new dwellings to foreign persons. All non-resident foreign purchasers must submit individual applications.
8. Temporary residents will not be required to notify FIRB of proposed acquisitions of an established dwelling for their own residence (and so this excludes investment properties), any new dwellings and also single blocks of vacant residential land. Non-residents however will still have to notify FIRB of acquisitions of residential property.
9. Resorts and hotels will be treated as commercial real estate rather than residential real estate. Acquisitions of resorts or hotels (or individual units within them) if valued below the relevant threshold (\$5million for heritage listed, \$50million for non-heritage listed, or \$953million for US investors) will be exempt from the Act and will not require FIRB approval.

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