



HD Regulator lacks resources to enforce foreign home buyer restrictions

BY By business reporter Michael Janda

WC 935 words

PD 30 May 2014

SN Australian Broadcasting Corporation (ABC) News

SC ABCNEW

LA English

CY (c) 2014 Australian Broadcasting Corporation

LP

A parliamentary committee has heard that regulators are largely relying on the honesty of **purchasers** to enforce restrictions on foreign housing investment.

that the House of Representatives Economics Committee would examine the levels of foreign investment in Australian **residential** real **estate**, and how effectively rules around it were being enforced.

TD

Australia has strict rules limiting what types of **residential property** people can **buy** if they're not citizens or permanent residents.

Non-residents can only **buy** newly built properties and, while temporary residents can **buy** an existing home, they must be living in it and sell it when they move out of the country.

On today's first morning of hearings, Foreign Investment Review **Board** (FIRB) and Treasury officials admitted that, while the rules are in place, only a handful of staff monitor whether they are being complied with in thousands of **transactions** a year.

"The Foreign Investment Review **Board** on **residential** real **estate** has eight staff," the **board**'s chairman Brian Wilson told the committee.

Mr Wilson said that means FIRB largely relies on the buyers declaring their **purchase**, as state land titles offices generally do not check a real **estate purchaser**'s residency status.

"The only state land titles office that has a foreign or domestic tick in it is Queensland. None of the others do," he added.

Ways around the rules

Mr Wilson also pointed out that there are many ways a foreign buyer can **purchase a property** that they are not allowed to and FIRB does not have the resources to check all the **transactions**.

"The properties can be bought in all sorts of ways: they can be bought by individuals; they can be bought by trustees, disclosed or not; they can be bought by corporations; they can be bought by friends, family members, relatives, solicitors, etc," he said.

"To be absolutely certain we had all the data about the actual, certain identity of the buyer, to match [FIRB] approvals to actual **transactions** would be a very heavy manual exercise."

Mr Wilson added that, in order to perform such in depth analysis of millions of tax returns, the Australian Tax Office has over 20,000 staff, versus the eight FIRB has in its real **estate** section.

Labor MP Pat Conroy questioned whether there were any ways to penalise people who helped foreign buyers skirt the rules.

"Are there any obligations on real **estate** agents or anyone else to be part of this process?" he asked Treasury's John Hill.

"It's a good question. The answer is no. The foreign person that acquires the interest is the individual that is captured by our regulatory system," Mr Hill responded.

'Stern' talking to for breaches

Given these handicaps, it is perhaps not surprising that there are few prosecutions for breaching the foreign investment rules around housing.

The committee's chairwoman, Liberal MP Kelly O'Dwyer, wanted to know exactly how many prosecutions had taken place.

"Over time, since the most recent penalties have been in place since 2010, how often have they been used?" she asked Mr Hill.

"We don't operate at that point very often. In fact its very rare that we will exercise prosecution activity," he responded.

When people are caught out breaking the rules, Mr Hill said they are generally asked to arrange their affairs so they comply - typically by selling the offending **property**, or by moving into the home if they are a temporary resident.

"We would certainly speak very sternly to the individuals concerned and say that this is a situation we don't want to continue and we will follow it very closely," he said.

Mr Hill says most foreign owners caught out and asked to comply with the rules generally do so within months.

If they do not, a fine of up to \$85,000 is available for individuals, and several times that amount for corporations.

People who break the law also face potential jail time.

However, given the lack of investigative resources, the rarity of prosecutions and the size of the maximum fine, one committee member questioned whether some overseas investors may view the potential penalties as simply a cost of doing business.

FIRB doesn't measure 'actual investment'

Treasury's Jonathan Rollings acknowledged that the huge holes in data collection mean FIRB's figures - often quoted by real **estate** analysts to highlight what they say is the relatively small amount of overseas **purchases** - are very unreliable to measure total foreign investment, much of which may not be declared.

"The focus of the FIRB has never really been on trying to measure actual investment, we are essentially reporting our activities, and I think this is where the challenge lies for people seeking more information on what actually happens," he said.

However, FIRB's chairman Brian Wilson says he does not think foreign investors make up as much of the market as many people think, and the media report.

"Very often where we might get a call that says 'a **Chinese** has bought this house and my daughter wasn't able to do so', and it's investigated, yes they are of **Chinese** background but they're a citizen. They live here," he said.

"We also have 450,000 legal temporary residents in Australia - they're entitled to **buy** a house under the rules. That's 2 per cent of the population."

However, until there is better data, it is hard to know how much supposed foreign home buying is mistaken identity, and how much is in breach of the rules.

IN irreal : Residential Real Estate | i85 : Real Estate Transactions | icre : Real Estate/Construction | ireest : Real Estate
NS c13 : Regulation/Government Policy | e51 : Trade/External Payments | ccat : Corporate/Industrial News | ecat : Economic News | ncat : Content Types | nfact : Factiva Filters | nfcpin : FC&E Industry News Filter
RE austr : Australia | apacz : Asia Pacific | ausnz : Australia/Oceania
IPD Foreign
PUB Australian Broadcasting Corporation
AN Document ABCNEW0020140530ea5u00062