



### Increasing FIRB Fees and Penalties

Party: Australian Labor Party

#### Summary of proposal:

The proposal seeks to increase the fees and penalties levied by the Foreign Investment Review Board (FIRB), on an ongoing basis. Specifically, the proposal would:

- double the application fees for foreign investment in residential real estate
- double the civil and criminal financial penalties for foreign buyers who acquire new or existing dwellings without approval
- double the maximum penalties for the following 8 breaches:
  - Non-resident acquires established property or temporary resident acquires more than one established property.
  - Temporary resident fails to sell established property when it ceases to be their principal residence.
  - Temporary resident rents out an established property.
  - Failure to complete construction within 4 years without seeking extension.
  - Property developer fails to market apartments in Australia in accordance with conditions applying to an exemption certificate.
  - Property developer fails to comply with reporting conditions associated with approval.
  - Foreign person fails to comply with reporting conditions that requires them to notify of actual purchase and sale of established properties.
  - Third party assists foreign investors to breach rules.
- double all other FIRB fees

The proposal would have effect from 1 July 2022.

### Costing overview

The proposal would be expected to increase the fiscal and underlying cash balance by \$446 million over the 2022-23 Budget forward estimates period. This impact entirely reflects an increase in revenue over the 2022-23 Budget forward estimates period.

The proposal would have financial impacts beyond the 2022-23 Budget forward estimates period. A breakdown of the financial implications (including separate PDI tables) over the period to 2032-33 is provided at Attachment A.

The proposal is not expected to involve any change in departmental expenses as it does not involve a material change in the administrative complexity of the existing fee and penalty system.

This costing is subject to uncertainty surrounding foreign demand, behavioural responses, and the growth in the number and value of applications and prices of affected properties. Factors affecting foreign investment include state taxes and foreign resident stamp duty increases, foreign investment

application fees, increased restrictions on capital transfers in home countries, tightening of bank lending to foreigners, and market conditions.<sup>1</sup> For instance, there was a large upwards variation in FIRB receipts from the 2021-22 Budget to the 2022-23 budget, likely due to a combination of a strong property market attracting more property investors and higher prices pushing properties into the higher application fee tier.

**Table 1: Financial implications (\$m)<sup>(a)(b)</sup>**

	2022-23	2023-24	2024-25	2025-26	<b>Total to 2025-26</b>
Fiscal balance	71.6	121.3	125.0	127.6	<b>445.5</b>
Underlying cash balance	71.6	121.3	125.0	127.6	<b>445.5</b>

(a) A positive number represents an increase in the relevant budget balance; a negative number represents a decrease.

(b) PDI impacts are not included in the totals.

## Key assumptions

The Parliamentary Budget Office (PBO) has made the following assumptions in costing this proposal.

- 25% of applications for foreign investment in residential property that would have been made in 2022-23 under current policy settings would be brought forward to 2021-22 to avoid paying the higher fees.
- There would be a small decline in the total value of applications for foreign investment in residential property because of this proposal.
- There would be a significant behavioural response to the doubling of penalties, with 50% of tier 2 breaches (resulting from compliance activity) moving to tier 1 breaches (self-reported).
  - Penalties are significantly lower for those that self-report their breach. As such, doubling the penalties would be likely to see more self-reporting and fewer penalties arising from compliance activity.

## Methodology

### Increasing residential real estate FIRB fees and penalties

The financial impact was calculated by comparing estimated FIRB fee and penalty revenue under the proposal with fee and penalty revenue at the most recent baseline (2022-23 Budget). Additional adjustments are made to the model to reflect the behavioural responses outlined above.

### Increasing non-residential real estate FIRB fees

The financial impact was calculated by multiplying the estimated proportion of non-residential FIRB fee revenue and the total FIRB fee receipts, uplifted by the Consumer Price Index.

Financial implications were rounded consistent with the PBO's rounding rules as outlined on the PBO Costings and budget information webpage.<sup>2</sup>

<sup>1</sup> Foreign Investment Review Board, 2021. *Annual Report 2019-20*, Canberra: Commonwealth of Australia 2019. p. 33.

<sup>2</sup> [https://www.apf.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Budget\\_Office/Costings\\_and\\_budget\\_information](https://www.apf.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/Costings_and_budget_information)

## Data sources

The Australian Taxation Office provided forecasts for revenue associated with fees collected from foreign investment over the period to 2025-26.

The Treasury provided forecasts of the revenue from residential and business fees collected from foreign investment over the period from 2015-16 to 2021-22.

Foreign Investment Review Board (2022), [Annual Report 2020-21](#), Australian Government.

## Attachment A – Increasing FIRB Fees and Penalties– financial implications

**Table A1: Increasing FIRB Fees and Penalties – Fiscal and underlying cash balances (\$m)<sup>(a)</sup>**

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33
<b>Tax revenue</b>													
<i>Increase FIRB fees for residential real estate by 100%</i>	46.0	95.0	98.0	100.0	103.0	105.0	108.0	110.0	113.0	116.0	119.0	339.0	1,113.0
<i>Increase all non-residential FIRB fees by 100%</i>	25.0	25.6	26.3	26.9	27.5	28.2	28.9	29.6	30.3	31.1	31.9	103.8	311.3
<b>Total – tax revenue</b>	<b>71.0</b>	<b>120.6</b>	<b>124.3</b>	<b>126.9</b>	<b>130.5</b>	<b>133.2</b>	<b>136.9</b>	<b>139.6</b>	<b>143.3</b>	<b>147.1</b>	<b>150.9</b>	<b>442.8</b>	<b>1,424.3</b>
<b>Non – tax revenue</b>													
<i>Increase FIRB Penalties by 100%</i>	0.6	0.7	0.7	0.7	0.7	0.7	0.8	0.8	0.8	0.8	0.8	2.7	8.1
<b>Total – non-tax revenue</b>	<b>0.6</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>2.7</b>	<b>8.1</b>
<b>Total (excluding PDI)</b>	<b>71.6</b>	<b>121.3</b>	<b>125.0</b>	<b>127.6</b>	<b>131.2</b>	<b>133.9</b>	<b>137.7</b>	<b>140.4</b>	<b>144.1</b>	<b>147.9</b>	<b>151.7</b>	<b>445.5</b>	<b>1,432.4</b>

(a) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

**Table A2: Increasing FIRB Fees and Penalties – Memorandum item: Public Debt Interest (PDI) impacts – Fiscal and underlying cash balances (\$m)<sup>(a)(b)</sup>**

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33
<i>Fiscal balance</i>	0.8	3.0	5.9	8.9	12.2	15.9	20.1	24.8	30.1	36.0	43.1	18.6	200.8
<i>Underlying cash balance</i>	0.7	2.8	5.5	8.5	11.8	15.4	19.6	24.2	29.5	35.3	42.3	17.5	195.6

- (a) As this table is presented as a memorandum item, these figures are not reflected in the totals in any tables above. This is consistent with the approach taken in the budget where the budget impact of most measures is presented excluding the impact on PDI. If the reader would like a complete picture of the total aggregate, then these figures would need to be added to the figures above. For further information on government borrowing and financing please refer to the PBO's Online budget glossary<sup>3</sup>.
- (b) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

<sup>3</sup> [Online budget glossary – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au)