

FIRB UPDATE

Changes Fully Implemented

From 31 March 2009, the changes to Australia's Foreign Investment Policy regarding direct investment in residential real estate have been fully implemented. One of the most significant changes to the policy relates to exemption of Temporary Residents from foreign investment notification.

The definition of 'temporary resident' includes all foreign persons living in Australia who:

- hold a valid temporary visa which permits them to stay in Australia for a continuous period of more than 12 months (irrespective of how much time is remaining until that visa expires); or
- have submitted an application for permanent residency (PR), and hold a bridging visa which permits them to stay in Australia until their PR application has been finalised

Short-term visitors such as tourists, business people and those here for a medical procedure are **not** temporary residents.

The Temporary residents' exemption

- Temporary residents are no longer required to notify proposed acquisitions of:
- an **established dwelling** for their own residence (not for investment purposes);
- any **new dwellings**; and
- single blocks of **vacant residential land** (other acquisitions of vacant land will require notification and will normally be approved subject to development within 24 months).

The exemption applies to contracts entered **on or after 18 December 2008** (the date that the Assistant Treasurer announced the policy changes) - that is, notification is not required even if a temporary resident signed/exchanged contracts to purchase such property before the Regulations were amended on 31 March.

The exemption includes acquisitions of property by temporary residents via their trust or Australian incorporated company.

In addition, foreign students resident in Australia are no longer subject to a \$300,000 limit on the value of an established dwelling purchased as their principal place of residence.

The existing notification requirements continue to apply to non-residents, who must notify **all** proposed acquisitions of residential real estate.

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