3

The foreign market for Australian housing

Levels of foreign investment in Australian property

3.1 The residential property market in Australia is substantial, underpinned by a total stock of approximately 8.6 million dwellings with a current estimated market value of $5.4 trillion.[1] RP Data indicates in its submission that 184,000 new property (including land) transactions totalling $78.5 billion and 363,000 individual sales of established dwellings with a total value of $192 billion took place in 2013 in Australia.[2]

3.2 In terms of the foreign investment component of these sales, the Treasury summarizes Foreign Investment Review Board (FIRB) approvals to purchase residential property in the last two financial years as follows:

- Approved proposed investment for the first nine months of 2013-14 was around $24.8 billion, 44 per cent higher than the $17.2 billion approved during all of 2012-13. The total number of residential real estate proposals increased by 4,331 proposals to 15,999 approvals in the first nine months of 2013-14.
- The majority of the increase is attributable to proposed investment in new property, which at $19.3 billion for the first nine months of 2013-14 is 79 per cent higher than the $10.8 billion in 2012-13. Approvals for proposed investment in new property also represent the majority of the overall increase, with 10,244 approvals in the first nine months of 2013-14 compared to 6,567 approvals in 2012-13.
- The total number of established property approvals for the first

1 RP Data, *Submission 23*, p. [1].

2 RP Data, *Submission 23*, p. [2].

nine months of 2013-14 is 5,755 compared to 5,101 for 2012-13.[3]

3.3 Notably however, these data correspond to approvals and not actual purchases and, as mentioned in Chapter 2, foreign acquisitions of real estate that have bypassed the required approval process will not be captured. The Treasury emphasises:

> … not all approvals will result in an actual purchase. For example, some investors will seek several approvals to allow them to bid at different auctions but may only purchase one property, or be unsuccessful and purchase none at all. As such, approval data does not correspond with the number of actual purchases by foreign investors.[4]

3.4 FIRB data on approvals for foreign purchases of real estate by country in the 2012-13 financial year are listed in Table 3.1. The United States, China and Canada were the three largest sources of foreign investment in this sector, with Singapore and the United Kingdom also featuring prominently.

3.5 Of the total FIRB approved investment of about $51.9 billion in Australian real estate in 2012-13, $17.2 billion was for residential dwellings.[5] The remaining $34.7 billion was for commercial property.[6] However, the residential component of foreign real estate investment is not disaggregated by source country in the available data. Hence, the values in Table 3.1 for total FIRB approved investment in real estate include both commercial and residential property. In this regard, the committee is of the view that disaggregated country data needs to be collected and made available to policymakers to make better informed decisions in the future.

3.6 The value of FIRB approvals for residential property has fluctuated significantly in recent years. These figures are $8.8 billion in 2009-10; $20.9 billion in 2010-11; $19.7 billion in 2011-12; and $17.2 billion in 2012-13.[7] As mentioned in paragraph 3.2, there has been a marked increase in the number of approvals and property values associated with these approvals ($24.8 billion) in the first nine months of the current financial year.

3 The Treasury, *Submission 31*, p. 6.

4 The Treasury, *Submission 31*, p. 6.

5 Foreign Investment Review Board (FIRB), *Annual Report 2012-13*, p. 29.

6 FIRB, *Annual Report 2012-13*, p. 30.

7 FIRB, *Annual Report 2012-13*, p. 29.

Table 3.1 FIRB approved investment in real estate sector by source, $ million (figure totals include both residential and commercial properties)

Country	**2012–13 (top 5 ranking)**	**2011–12 (top 5 ranking)**	**2010–11 (top 5 ranking)**	**2009–10 (top 5 ranking)**	**2008–09***	**2007–08 (top 5 ranking)**
USA	4406 **(3)**	8162 **(1)**	3404 **(3)**	3369 **(1)**	-	11998 **(1)**
UK	1671 **(5)**	3783 **(4)**	4610 **(1)**	2264 **(3)**	-	4430 **(3)**
China	5932 **(1)**	4187 **(3)**	4093 **(2)**	2421 **(2)**	-	1491 **(5)**
Singapore	2008 **(4)**	5705 **(2)**	1487	2113 **(4)**	-	1779 **(4)**
UAE	885	-	1088	11	-	4712 **(2)**
Germany	769	1020	1128	1247 **(5)**	-	1289
Malaysia	1600	1791	1863 **(4)**	612	-	268
Canada	4926 **(2)**	2457 **(5)**	807	375	-	590
Netherlands	229	-	1691 **(5)**	936	-	1452
South Africa	953	1736	826	497	-	433
South Korea	903	443	497	1165	-	1153
Japan	895	1743	598	368	-	275
Hong Kong	649	777	404	404	-	463
Switzerland	346	523	455	497	-	407
Sweden	-	-	-	397	-	1011
New Zealand	644	864	64	45	-	274
France	100	426	45	34	-	51
India	-	148	163	53	-	144
Russia	-	47	245	-	-	88
Thailand	-	34	13	-	-	-
Others	10541	13494	12280	2762	8500	10454

Source FIRB Annual Reports, various years. Figures include both commercial and residential real estate.
**not allocated by country source*

3.7 Urban Taskforce Australia notes that:

> Reports based on the Foreign Investment Board and Australian Bureau of Statistics data suggest that the Chinese contribution of the total foreign investment in residential real estate … [is] approximately $5 billion per annum. However this is in a market that saw $250 billion in residential property being sold. While 2 per cent of the market is a worthy contribution to new housing, it is not considered to be at a level to warrant the community concerns and intense media scrutiny of late.[8]

8 Urban Taskforce Australia, *Submission 11*, p. 2.

3.8 The Reserve Bank of Australia (RBA) comments in its submission that 'the value of approved foreign investment in residential property in Australia has increased, rising from around $6 billion annually in the 1990s to over $17 billion in 2012/13'.[9] The RBA notes however:

> … with overall dwelling prices and turnover having increased significantly in Australia over the past 20 years, the share of foreign residential approvals in the value of total dwelling turnover in Australia has remained broadly steady through time, fluctuating around 5–10 per cent, and in 2012/13 it was in the middle of that range.[10]

3.9 The Treasury notes that 'a large proportion of the growth in residential real estate approvals has been from non-resident Chinese investors'.[11] The Treasury also comments however:

> … data limitations (including the lack of a comprehensive data source on nationwide dwelling purchases)... make it difficult to gauge how significant foreign purchases are as a share of national housing demand.[12]

3.10 FIRB approval data that are disaggregated by category and State/ Territory indicate that the large increases in the first nine months of 2013-14 were primarily for new developments in New South Wales and Victoria.[13]

3.11 RP Data referred to these FIRB data in their opening remarks to the committee at the public hearing on 27 June 2014 and compared them with the sales data that they themselves had generated.[14] The data for Victoria were highlighted due to the particularly stark increase in the foreign investment component of the gross residential real estate by sales value in that State. These data are included in Table 3.2.

3.12 In response to questions about the high figures for Victoria at the public hearing on 27 June, Mr Tim Lawless of RP Data commented that 'the FIRB number for Victoria was $9.7 billion for the number of approvals over that nine-month period in 2013-14 compared to a total value of sales across Victoria of $41.6 billion'.[15] He went on to say however that:

9 Reserve Bank of Australia (RBA), *Submission 19*, p. 3.
10 RBA, *Submission 19*, p. 3.
11 The Treasury, *Submission 31*, p. 7.
12 The Treasury, *Submission 31*, p. 1.
13 The Treasury, *Submission 31*, Attachment B, p. 16.
14 RP Data, *Submission 23.1*, p. 5.
15 Mr Tim Lawless, Director Research, RP Data, *Committee Hansard*, Sydney, 27 June 2014, p. 16.

> There are two differences here. There is the magnitude based on volume and of value, and you can see that the volume is relatively reasonable at just under 10 per cent, 9.3 per cent. It suggests to me that those foreign buyers investing in the Victorian housing market are doing so at a relatively higher price point than what you would find for most domestic buyers.[16]

Table 3.2 Percentage of total value of FIRB approvals to gross value of dwelling sales by location

	2011–12				2012–13				2013–14*			
	Total sales (000)#	Gross value ($b)	% approvals	% value	Total sales (000)#	Gross value ($b)	% approvals	% value	Total sales (000)#	Gross value ($b)	% approvals	% value
VIC	99	50.2	3.7	13.1	102	52.23	4.4	11.1	75	41.61	9.3	23.2
NSW	137	74.7	2.2	9.3	139	80.76	2.5	6.9	115	73.03	4.6	13.2
QLD	83	36.6	1.8	7.3	93	41.53	1.8	4.5	76	34.64	2.7	7.8
WA	43	22.5	2.0	5.0	52	28.43	2.4	3.1	39	22.64	2.9	5.6
NT	4	1.61	0.8	1.9	4	1.90	0.7	0.5	3	1.61	1.0	34.1
SA	31	12.9	1.8	2.5	31	12.25	1.8	2.3	25	10.32	1.8	2.1
ACT	8	4.15	1.0	2.9	7	3.96	1.6	3.3	5	2.89	2.2	2.1
TAS	9	2.7	0.6	0.4	9	2.91	0.5	1.0	7	2.10	0.7	0.5
Total	413	205	2.4	9.6	437	223.97	2.7	7.7	345	188.8	4.6	13.2

Source RP Data
*# (numbers are rounded) *(9 months to March 2014)*

3.13 Mr Lawless further qualified this data by again pointing out that they are based on FIRB approvals and not completed transactions.

3.14 FIRB approval data, if considered to be a reliable proxy for foreign investment levels in real estate, show that the marked increase in approvals in the first nine months of 2013-14 was principally for new dwellings (7675 vs 4499 in the entire 2012-13 financial year). Approvals for established dwellings also increased during this same nine month period, but to a lesser extent, whereas 'off-the-plan' approvals do not seem to have changed substantially (see Table 3.3).

16 Mr Lawless, RP Data, *Committee Hansard*, Sydney, 27 June 2014, p. 16.

Table 3.3 Foreign investment in residential real estate by type and number of proposals approved

	2010–11		2011–12		2012–13		2013–14(a)	
	No.	**$billion**	**No.**	**$billion**	**No.**	**$billion**	**No.**	**$billion**
RESIDENTIAL								
Existing	3881	3.57	3952	2.87	5091	5.42	5751	5.23
New								
vacant land	1514	2.33	1518	0.68	1821	1.39	2125	1.29
individual new dwellings	3911	2.46	4022	2.54	4499	2.91	7675	5.14
off-the-plan (b)	65	10.08	70	10.92	50	5.73	73	11.97
redevelopment	171	0.45	191	0.50	189	0.36	363	0.50
Sub-total 'new'	*5661*	*15.32*	*5801*	*14.64*	*6559*	*10.39*	*10236*	*18.9*
TOTAL RESIDENTIAL (000)	**9.5**	**18.89**	**9.8**	**17.51**	**11.7**	**15.81**	**16**	**24.13**

Source: Modified from the Treasury, Submission 31, Attachment B, p. 15.
(a) Data for 2013-14 is for the nine months to 31 March 2014.
Note: Totals may not add due to rounding. Annual employer-based programs have not been included.
(b) Advanced-off-the-plan certificates are included in the figures above. That is, one advanced-off-the-plan certificate equates to one approval in terms of the number of approvals but the entire value of the proposed development is included in the value columns. The number of applications approved during 2012-13 and the first nine months of 2013-14 corresponded to a maximum of 10,019 and 19,504 new off-the-plan dwellings respectively that could be sold to foreign investors in those years.

3.15 Meriton Group refers to the 2012-13 FIRB data in its submission and comments in relation to foreign purchases that 'this is only a small number [of dwellings] (around 2.5 per cent by number of sales) of the total residential real estate market which in 2013 had total annual sales of 468,354 dwellings'.[17] Meriton Group further submits in relation to the approvals for 2012-13:

> … at least 43.7 per cent were for the use of accommodating people legally in Australia under our temporary migration arrangements… The impact of this is that non-resident purchases are probably closer to one per cent of the total housing market.[18]

17 Meriton Group, *Submission 14*, p. 3.
18 Meriton Group, *Submission 14*, p. 3.

Foreign investment preferences

Overview

3.16 The committee is cognisant of the complexity of the residential real estate market in Australia and that in fact there are different markets operating within that sector. Likewise, the evidence to this inquiry indicates that it is specific parts of the residential property market in Australia that attract the majority of foreign investment. The RBA submits in this regard:

> Foreign investment appears to be concentrated in some parts of the overall housing market, particularly in new rather than established dwellings, in higher- rather than lower-priced dwellings, in medium- and high-density rather than detached dwellings, and in inner-city areas of Sydney and Melbourne rather than other geographic areas.[19]

3.17 The RBA also comments in its submission that 'bank liaison with housing market contacts suggests that, rather than being for short-term speculative purposes, foreign purchases of dwellings in Australia generally reflect a decision to invest for the longer term'.[20] The RBA remarks:

> … these purchases appear to be motivated to meet housing needs for business persons located temporarily in Australia, for children studying in Australia, to acquire a second residence (possibly for eventual migration) and/or to diversify holdings of wealth geographically.[21]

New versus established properties

3.18 When appearing before the committee on 27 June 2014, Dr Christopher Kent, Assistant Governor of the RBA, remarked in his opening statement in relation to the types of properties bought by foreign investors that 'while incomplete, the FIRB data and the information received through our liaison with developers suggests that most foreign residential purchases are for new, high-density, inner-city properties, as well as properties close to universities'.[22]

3.19 Dr Kent further commented in relation to foreign buyers that 'the properties they purchase tend to be valued well above the average national sales price'.[23] He stated:

19 RBA, *Submission 19*, p. 1.

20 RBA, *Submission 19*, p. 5.

21 RBA, *Submission 19*, p. 5.

22 Dr Christopher Kent, Assistant Governor, RBA, *Committee Hansard*, Sydney, 27 June 2014, p. 2.

23 Dr Kent, RBA, *Committee Hansard*, Sydney, 27 June 2014, p. 2.

> There are some foreign buyers who purchase cheaper homes outside the inner-city areas, just as there are some first home buyers who purchase inner-city properties priced above the national average. But in the main foreign buyers appear to be purchasing properties that are typically quite different in their characteristics from those purchased by first home buyers.[24]

3.20 Mr Scott Haslem, Chief Economist, UBS Australia, commented at the public hearing on 29 August on the extent to which foreign investors in the residential property market may be impacting on first home buyers:

> It remains the case, as outlined by the RBA, that foreign citizens or temporary residents tend to purchase new housing at above average prices, suggesting limited aggregate impact on affordability faced by first home buyers, who typically purchase established housing below the medium price. But the absence of any material impact becomes much less certain when we consider the rising trend of first home owners towards new property and particularly in the city regions of Sydney and Melbourne, where average prices are already above the national medium and where foreign demand may have risen more sharply in those particular areas.[25]

3.21 The potential impacts of foreign investors on the first home buyers' market are discussed in more detail in Chapter 4.

3.22 Housing Industry Association (HIA) presents a view on who the typical foreign buyers of Australian property are and why they purchase dwellings in Australia, submitting:

> Foreign buyers are typically individuals (the use of trust or company structures is very rare) and the majority would not be considered 'sophisticated investors'… The majority of properties purchased by foreign investors are held as investments and buyers require returns commensurate with prevailing market rates… It is very uncommon for foreign investors to leave properties vacant for extended periods or be motivated by short term speculation on dwelling price movements.[26]

3.23 SMATS Group concurs with the view that most foreign purchases of Australian housing are long term investments, submitting:

24 Dr Kent, RBA, *Committee Hansard*, Sydney, 27 June 2014, p. 2.

25 Mr Scott Haslem, Chief Economist, UBS Australia, *Committee Hansard*, Canberra, 29 August 2014, p. 26.

26 Housing Industry Association (HIA), *Submission 20*, p. 4.

> … the great majority (estimated at well over 90%) of foreign buyers hold their property for a considerable period after settlement, choosing to rent the property out for extended periods… The fact that the overwhelming majority of foreign investors retain their property for long term period post settlement is also a stabilizing factor in both the property industry and also the property market as a whole.[27]

3.24 Nyko Property states in its submission that 'when purchasing new property, we have found that foreign investors normally buy apartments in the larger blocks within the CBDs of Melbourne and Sydney and to a lesser extent Brisbane'.[28]

3.25 At the public hearing on 30 May 2014, the Real Estate Institute of Australia (REIA) commented that Australian first home buyers have an 80 per cent preference for established real estate. Ms Amanda Lynch, CEO of the REIA, commented:

> This is a different buying habit from foreign investors, who favour new apartments. Foreign investors who are not temporary residents cannot buy established houses. The preference for foreign investors is at the higher end of the market, with a $1 million average for established real estate for temporary residents, and a $647,000 average for individual purchasers of new dwellings.[29]

3.26 Also at the 30 May hearing, Dr Brent Davis from Master Builders Australia remarked that from the various sources available to his organisation, foreign buyers account for about five to six per cent of the Australian housing market. He further commented in relation to foreign buyers:

> They probably do not compete with the first home buyer segment of the market. They probably position themselves towards the higher end of the market. The first home buyer is in the $350,000 to $400,000 range. ... From the data we have seen, the foreign buyer in the new segment tends to be in about the $650,000 market.[30]

3.27 Property Council of Australia comments in its submission that while there are no formal data on the types of projects being developed by

---

27 SMATS Group, *Submission 35*, p. 6.

28 Nyko Property, *Submission 28*, p. [3].

29 Ms Amanda Lynch, CEO, Real Estate Institute of Australia (REIA), *Committee Hansard*, Canberra, 30 May 2014, p. 28.

30 Dr Brent Davis, National Director, Industry Policy, Master Builders Australia, *Committee Hansard*, Canberra, 30 May 2014, p. 26.

international investors, anecdotal evidence indicates that high-rise apartments and medium-density housing represent the majority.[31]

3.28 Mr Bill Nikolouzakis of Nyko property commented when appearing before the committee on 20 June 2014:

> We have found that predominantly investors are buying in Australia as a way to get their money into a stable country, to diversify their asset portfolio—and it is generally wealthy individuals, not mum-and-dad type investors—into a country with a political system and a judicial framework that is perceived to be very positive and safe. There is also demand for investors who want to send their children to Australia.[32]

3.29 Upon questioning by the committee on the types of dwellings being purchased by foreign buyers, Mr Nikolouzakis noted that they are looking to buy inner-CBD apartment buildings:

> What we try and educate them to buy is probably not that; inner-suburban apartments and townhouse type developments is what we believe the right thing to be buying is. But what they want to buy is the inner-CBD apartment buildings, generally high-rise.[33]

3.30 In evidence to the committee, Mr Lawless of RP Data commented that 'if you look at some of the stock that is being built in the $500,000 to $600,000 market, it is being built very purposefully for foreign investment, I think you will find'.[34] He further remarked:

> A foreign investor is probably looking at units with one to two bedrooms, max, with a very small square meterage, whereas your typical first home buyer, for example, would be seeking something more substantial, probably with a larger net area and potentially not right in the middle of the CBD or next to a university…[35]

3.31 Mr Ray Ellis of First National Real Estate commented in his opening remarks to the committee at the public hearing on 29 August that 'whilst foreign investment has become a media issue nationally, the epicentres are Sydney and Melbourne'.[36]

3.32 Mr Stewart Bunn of First National Real Estate remarked in relation to Melbourne that 'foreign buyers seem to be most interested in suburbs

---

31 Property Council of Australia, *Submission 25*, p. 11.

32 Mr Bill Nikolouzakis, Nyko Property, *Committee Hansard*, Melbourne, 20 June 2014, p. 21.

33 Mr Nikolouzakis, Nyko Property, *Committee Hansard*, Melbourne, 20 June 2014, p. 22.

34 Mr Lawless, RP Data, *Committee Hansard*, Sydney, 27 June 2014, p. 19.

35 Mr Lawless, RP Data, *Committee Hansard*, Sydney, 27 June 2014, p. 19.

36 Mr Raymond Ellis, Chief Executive, First National Real Estate, *Committee Hansard*, Canberra, 29 August 2014, p. 13.

where properties are close to exclusive schools, the CBD and have wide leafy streets and good land sizes'.[37] Mr Bunn went on to say with respect to Sydney:

> The situation is broadly similar in Sydney, particularly on the north shore and in the north-west, although the range of suburbs that are of interest to foreign investors is certainly expanding.[38]

3.33 Mr John McGrath of McGrath Estate Agents commented that there is a lot of media hype around this issue but expressed the view that it is no more than that. Mr McGrath further remarked in relation to Chinese investment:

> We think that the vast majority of Chinese buyers that we deal with are buying in very tight geographic pockets. They are not buying across Sydney or across Melbourne; they are buying in specific areas.[39]

Off-the-plan investments

3.34 As outlined in Chapter 2, current FIRB rules allow a property developer to apply for an advanced off-the-plan certificate to sell all new dwellings in a development of 100 or more dwellings to foreign persons, provided the development is also marketed locally. This mechanism is designed to reduce compliance and administrative costs.[40]

3.35 Foreign buyers are not required to obtain separate approval to purchase a dwelling that has received an advanced off-the-plan certificate but developers must report the details of all foreign buyers under this certificate scheme.

3.36 The FIRB figures show that 73 advanced off-the-plan approvals were granted for the first nine months of 2013-14 for a total value of almost $12 billion. This is an increase on the previous year in which 50 such approvals were granted for developments totalling $5.73 billion in value (Table 3.3).

3.37 Treasury emphasises however that most dwellings in off-the-plan developments are purchased by domestic investors:

> … the value of advanced-off-the-plan approvals is recorded as the total value of the development, even though not all of the dwellings may end up being sold to foreign purchasers. Based on

37 Mr Stewart Bunn, National Communications Manager, First National Real Estate, *Committee Hansard*, Canberra, 29 August 2014, p. 13.

38 Mr Bunn, First National Real Estate, *Committee Hansard*, Canberra, 29 August 2014, p. 13.

39 Mr John McGrath, CEO, McGrath Estate Agents, *Committee Hansard*, Canberra, 29 August 2014, p. 14.

40 The Treasury, *Submission 31*, p. 4.

> historical data, the average size of an advanced-off-the-plan development is around 170 dwellings. On average, around 35 per cent of dwellings in a development have been sold to foreign persons.[41]

3.38 The Property Council of Australia submits that the pre-approval system is vital as it provides flexibility and enables developments to proceed, thus generating housing supply, but that the pre-approved amount for individual developments rarely translates into the actual purchase of off-the-plan dwellings:

> Industry evidence indicates that while in some circumstances the ratio between FIRB approvals and realised sales may be as high as 50 per cent, the typical band of realised sales as a portion of approvals is in a range of 10-20 per cent.[42]

3.39 Mr Brian Wilson, Chairman of the FIRB, reiterated at the public hearing on 30 May 2014 that most off-the-plan dwellings with FIRB approval are eventually purchased locally. He further commented:

> I think it is worth noting that most of the applicants for advanced off-the-plan certificates and most of the beneficiaries of that regime are actually Australian property developers seeking to get their development going.[43]

3.40 At the public hearing in Sydney on 27 June 2014, Mr Justin Brown of CBRE informed the committee that most of the 6000 apartments sold off-the-plan by his company were not sold to foreign investors. Mr Brown advised:

> We have offices right through Asia and throughout the world that we use. In Melbourne, we sell 15 per cent to foreign investors requiring FIRB [approval]; in Sydney, 12 ½ per cent; and in Brisbane, around five per cent of those numbers… Last weekend we launched a project for Lend Lease called Darling Square, which has 357 apartments. They all sold out on the day. We simultaneously launched in Sydney, Hong Kong, Singapore and China. But, in totality, only 20 per cent of the sales were made offshore.[44]

3.41 Official data, however, is not easily maintained due to the nature of the advanced off-the-plan certificate process. As noted by Treasury in its submission with respect to the use of advanced off-the-plan certificate

41 The Treasury, *Submission 31*, p. 6.

42 Property Council of Australia, *Submission 25*, p. 7.

43 Mr Brian Wilson, Chairman, FIRB, *Committee Hansard*, Canberra, 30 May 2014, p. 13.

44 Mr Justin Brown, Chairman, CBRE Residential, CBRE, *Committee Hansard*, Sydney, 27 June 2014, p. 39.

approvals as a measure of foreign investment, there is a lag that impacts on the data:

> There can often be a lag of several years between the time a certificate is granted to a developer and the time the development is constructed and individual dwellings in it are sold.[45]

3.42 The committee is also aware of concerns in the community that some off-the-plan properties are not accessible to domestic buyers. For example, when asked at the public hearing in Melbourne on 20 June 2014 whether he was aware of any examples of where developments of over 100 units had been marketed overseas only, Mr Martin Vockler, Regional Sales Manager at SMATS Group responded:

> That has been happening recently, and it is probably more with some of the Asian developers. They are buying sites and they are paying quite a high premium for the sites. The price of the apartment developments per square metre is extremely high. The size of the apartments is extremely small; they are really designed for the overseas market.

3.43 Further evidence on this matter is discussed later in this chapter. The committee's strong view is that Australians must have the same opportunity to purchase a property in any new development as a foreign investor. Currently developers who receive a certificate to sell to foreign investors off-the-plan must advertise in Australia. There is, however, no real penalty if they do not – other than a revocation of their certificate which can be redundant if all the properties have already been sold.

3.44 Again, it is not clear that Treasury has in place adequate processes for monitoring.

Analysis

Current data limitations

3.45 The quality of the currently available data on foreign investment in residential property was a regular topic of discussion in the written submissions to this inquiry and in the evidence given to the committee at public hearings. A consistent theme emerges from this evidence, which is that data needs to be improved to enable better informed decision-making.

45 The Treasury, *Submission 31*, p. 4.

3.46 The committee is also aware that foreign investors who do not seek approval to purchase a property cannot be captured by the current data framework and indeed, by the Treasury's own admission, it is currently difficult to detect instances of non-compliance (see paragraph 2.80). It is the committee's view that this situation must change.

3.47 The principal source of data on foreign investment in residential real estate currently comes from FIRB approvals. However, as alluded to earlier in this chapter, this information cannot precisely determine the levels of foreign purchases of residential real estate. The Treasury stresses in its submission that 'care must be exercised when analysing Foreign Investment Review Board approval data because it represents approvals and does not reflect actual purchases'.[46]

3.48 Meriton Group submits that 'there is a lack of publicly available data on foreign investment in residential real estate, which leads to speculative assumptions around its effect, and potentially leads to poorly informed policy changes'.[47]

3.49 The RBA comments in its submission that 'there is no adjustment made to the published approvals data as to whether the proposed purchases were subsequently completed'.[48]

3.50 In his opening remarks to the committee at the public hearing on 27 June 2014, Dr Kent of the RBA further emphasised that 'it is important to remember that the share of actual residential purchases by foreign citizens and temporary residents is likely to be much lower than the FIRB suggests, because not all of the approvals lead to a purchase'.[49]

3.51 HIA submits in this regard:

> The Foreign Investment Review Board (FIRB) Annual Report is the only official source of statistics relating to the extent of foreign investment in residential property in Australia. Unfortunately, information which is essential to drawing meaningful inference from the data remains unreported. The situation enables widely varying interpretations of the reported figures.[50]

3.52 Property Council of Australia agrees that the data is limited, submitting that 'FIRB data overstates the volume of international investment in residential real estate'[51] and adding:

46 The Treasury, *Submission 31*, p. 1.

47 Meriton Group, *Submission 14*, p. 2.

48 RBA, *Submission 19*, p. 2.

49 Dr Kent, RBA, *Committee Hansard*, Sydney, 27 June 2014, p. 1.

50 HIA, *Submission 20*, p. 7.

51 Property Council of Australia, *Submission 25*, p. 7.

> The current negative commentary around foreign investment in residential real estate has been spurred by the limited data available from government sources including the FIRB.[52]

3.53 The committee has formed the view that while there is an argument that foreign investors may be over-represented in the data – equally, it may be argued that if there are foreign investors that do not currently comply with screening requirements, there may be an underestimate. This is, however, difficult to prove, hence the need for better and more complete data.

3.54 Mr Nick Proud, Executive Director of the Property Council of Australia, also commented at the public hearing on 20 June that better decisions could be made with better information. He stated:

> The data looks like it is a starting point for analysis, but there is more detail across the numbers that would be useful. Looking at vacant land, for example, there is no detail about the apartments or the builds that go with that. That is an investment number that is not visible here. Regarding across-the-line items, there are definitely better decisions that could be made, and the contentious arguments that we are seeing played out in the media would be dispelled… and put to rest in many cases if that data were a lot more visible.[53]

3.55 Urban Development Institute of Australia also submits that the data limitations on foreign investment in residential real estate are problematic and have timing issues:

> At the moment the FIRB only provides limited publicly available data in their annual report to Treasury, and the data that is provided lacks key details such as residential investment by country of origin and investment by state or region. This, combined with the infrequency with which data is published makes it very difficult to build an accurate picture of the foreign investment landscape, and means that industry, the media, and the public must rely predominantly on anecdotal evidence and conjecture.[54]

3.56 Further to this issue, Dr Harley Dale, Chief Economist, HIA, recognised at the public hearing on 30 May 2014 that 'there are anecdotes that foreign

---

52 Property Council of Australia, *Submission 25*, p. 7.

53 Mr Nick Proud, Executive Director, Property Council of Australia, *Committee Hansard*, Melbourne, 20 June 2014, p. 2.

54 Urban Development Institute of Australia, *Submission 27*, pp. 2-3.

buyers have been able to circumvent the existing regulations in regard to established residential property'.[55] He added however:

> The fact that the government agencies have not provided complete information about the scale of foreign investment or evidence that existing policies are being enforced has probably added fuel to the speculation. There is, however, currently no evidence of widespread regulatory failure, but improved data collection and reporting of foreign buyer activity would no doubt assist authorities in ensuring regulatory adherence.[56]

Data collection overseas

3.57 RP Data provides direct comparisons in its submission of the approval processes and data available for foreign investment in residential real estate in other countries. The foreign countries included in its analysis are New Zealand, Singapore, United States, Canada, Switzerland and England.[57]

3.58 In England, there is neither an approval process nor a requirement for foreign nationals to declare their purchases. The available data are limited to reports from real estate agencies (based upon their sales information). Various interest groups also produce data but this is based on the statistics proffered by real estate agencies.[58] Switzerland has limited statistical data available, as does Canada which only produces data for provinces where consent is required and then only in respect for which approval is required.[59]

3.59 There are no data available in Singapore.[60] The US has various enactments under which foreign investment data is collected, although land ownership by non-US citizens is considered sparse.[61]

3.60 In New Zealand the Overseas Investment Office (OIO) publishes summaries of its decisions (redacted as necessary) and monthly statistics of applications made and approved/declined, the value of applications and the amount paid for the acquisition of the interest.[62] Many applications in New Zealand are approved subject to ongoing conditions.

---

55 Dr Harley Dale, Chief Economist, HIA, *Committee Hansard*, Canberra, 30 May 2014, p. 20.

56 Dr Dale, HIA, *Committee Hansard*, Canberra, 30 May 2014, p. 20.

57 RP Data, *Submission 23,* Appendix B, pp. [1-7].

58 RP Data, *Submission 23,* Appendix B, p. [7].

59 RP Data, *Submission 23,* Appendix B, pp. [5-6].

60 RP Data, *Submission 23,* Appendix B, p. [3].

61 RP Data, *Submission 23,* Appendix B, p. [4].

62 RP Data, *Submission 23,* Appendix B, p. [2].

The OIO is tasked with ensuring ongoing compliance with any conditions imposed. For example, it can require statutory declarations to be given by the overseas persons.[63]

3.61 At the public hearing on 25 June 2014, the Australian Bureau of Statistics (ABS) commented that the collection of foreign investment data with respect to real estate was an issue in other countries. Mr Paul Mahoney of the ABS remarked:

> … most countries have a lot of difficulty collecting information on direct ownership of real estate. They are not so interested from an international investment position, where that ownership is not mediated by a domestic corporate structure. They are more interested in the ownership of the corporate structure rather than the subsequent ownership of the land.[64]

3.62 In response to questions about whether any particular country had better data collection in this respect, Mr Mahoney commented:

> Not that I am aware of. The OECD used to collate a lot of information about how countries collected foreign direct investment and what was included and excluded by member countries. They have not done that recently… To a large extent what we have recognised is that it is an area of poor coverage.[65]

Future data benchmarks

3.63 The committee sought views on how the current shortfalls in the data on foreign investor activity in Australian housing could be addressed in the future, ostensibly from the key agencies that would be involved in procuring this information.

3.64 It is notable that RP Data comments in its submission that the FIRB data do not meet the standards set out in OECD recommendations for foreign investment activity:

> It is not accurate, reliable or timely and fails to meet the benchmark standards set out in the OECD Report [OECD Benchmark Definition of Foreign Direct Investment fourth edition 2008]… [66]

63 RP Data, *Submission 23,* Appendix B, p. [2].

64 Mr Paul Mahoney, Assistant Statistician, Australian Bureau of Statistics (ABS), *Committee Hansard*, Canberra, 25 June 2014, p. 9.

65 Mr Mahoney, ABS, *Committee Hansard*, Canberra, 25 June 2014, p. 9.

66 RP Data, *Submission 23*, p. [3].

3.65 RP Data cites an extract from the OECD report it mentions to illustrate this point:

> Internationally harmonised, timely and reliable statistics are essential to assess the trends and developments of the Foreign Direct Investment (FDI) activity, and to assist policy makers in dealing with the challenges of global markets. The usefulness of direct investment statistics depends on their compliance with several quality parameters: a) alignment with international standards; b) avoiding inconsistencies between countries and reducing global discrepancies; c) achieving consistent statistical series over time; d) timeliness; and e) allowing a meaningful exchange of data between partner countries.[67]

3.66 At the public hearing on 30 May 2014, Mr Jonathan Rollings, Foreign Investment and Trade Policy Division, the Treasury, emphasised to the committee regarding data collection that 'the focus of the FIRB has never really been on trying to measure actual investment'.[68] He stated:

> We are essentially reporting our activities and I think that this is where the challenge lies with people seeking more information on what actually happens compared to our reporting on our regulatory activity, and there are key differences there.[69]

3.67 The ABS affirms in its written submission to the committee that the current data are limited in terms of the information they can provide:

> Both in terms of dissemination and collection practices, it is not possible to dissect the available information to define values for foreign investment in real estate, either at the total level, or the split between residential and commercial real estate. This is a consequence of the methodology used to collect and compile these estimates.[70]

3.68 ABS further comments in its submission that 'detailed information on actual investment by country of investor would assist in meeting data gaps in the ABS's foreign investment in real estate estimates'.[71]

3.69 At the public hearing on 25 June 2014, Mr Mahoney of the ABS, noted in his opening statement in relation to foreign investment data for residential real estate:

---

67 RP Data, *Submission 23*, p. [2].

68 Mr Jonathan Rollings, General Manager, Foreign Investment and Trade Policy Division, the Treasury, *Committee Hansard*, Canberra, 30 May 2014, p. 8.

69 Mr Rollings, the Treasury, *Committee Hansard*, Canberra, 30 May 2014, p. 8.

70 ABS, *Submission 34*, p. [1].

71 ABS, *Submission 34*, p. [2].

> There are identified data gaps in this area and issues where we have had interest expressed in the past in around collecting more information. One is with the direct holding of real estate, but there is nobody in Australia to whom we can send a survey, so we find it very difficult to identify and capture information about the direct holding of real estate.[72]

3.70 The committee asked the ABS to outline the extent of its data gathering in relation to foreign investment in residential real estate. Mr Mahoney remarked that these data are essentially not collected by ABS:

> Conceptually, all foreign investment into residential real estate directly by a non-resident would be within the scope and coverage of Australia's international investment position. We would record that as part of foreign ownership of Australian equity. It would appear as foreign direct investment, but it would not be separately identified within all other foreign direct investment.[73]

3.71 Mr Mahoney went on to say that the ABS estimate of foreign investment in residential real estate, as a component of foreign direct investment in equity, is made very conservatively and agreed when questioned that it could be an underestimate. He emphasised however:

> … it would be coloured by the fact that our data sources—limited as they are—generally identify purchases of real estate by non-residents but they often do not identify sales of real estate by non-residents. So once we identify something as being held by a non-resident we are unlikely to identify it as then moving out of the series as well. And even then we do not publish to anywhere near this level of detail.[74]

3.72 The committee inquired about the level of collaboration between the ABS and FIRB. The ABS commented at the public hearing that they mainly get information from FIRB annual reports and that they would be limited by their legislation to providing only aggregate level information back to the Treasury if requested. Mr Mahoney stated however when questioned about whether better collaboration could improve data collection:

> We could do better in terms of collaboration, particularly if the review board was given the mandate to go further, beyond just reviewing the intentions and collecting information about the outcomes of those investment intentions—addressing the issues

72 Mr Mahoney, ABS, *Committee Hansard*, Canberra, 25 June 2014, p. 5.

73 Mr Mahoney, ABS, *Committee Hansard*, Canberra, 25 June 2014, p. 6.

74 Mr Mahoney, ABS, *Committee Hansard*, Canberra, 25 June 2014, p. 6.

> that I mentioned before: whether the investment goes ahead, the actual timing of the investment, and the price of the investment. If that information were available to us then it would feed through to a more robust series around real estate.[75]

3.73 Also at the hearing on 25 June, ABS was asked by the committee whether a simple solution to providing accurate data on real estate holdings would be for the States to require a disclosure of nationality on property transfer documents. Mr Mahoney responded:

> That does sound very much like the gold standard: complete coverage; quality valuation; fair timing.[76]

3.74 Mr Peter Bradbury, Director, ABS, added that he would be 'overjoyed' to have access to such a data source with which to compile statistics.[77]

3.75 The ABS were asked by the committee at the public hearing to outline what the ideal scenario would be for data collection to provide comprehensive information on foreign investment in residential real estate. The ABS provided a response to this question in a supplementary submission in which it indicates that the following data would be required for this purpose:

- Market value of property transacted:
  - ⇒ To generate quarterly transactions and stock of residential real estate estimates.
- Settlement date:
  - ⇒ To allocate transactions to the period in which the transaction took place, in accordance with change of economic ownership principles in the BPM6 [Balance of Payments and International Investment Position Manual, Sixth Edition] framework.
- Residency of investor:
  - ⇒ To determine the nationality of the counterparty to the purchase and allow for alignment of direct invest to counterpart country.
- Australian Residency status of purchaser:
  - ⇒ To determine whether a purchaser is a permanent resident, long-term or non-resident resident. Determination of this will allow for appropriate treatment in the international investments accounts.

75 Mr Mahoney, ABS, *Committee Hansard*, Canberra, 25 June 2014, p. 7.

76 Mr Mahoney, ABS, *Committee Hansard*, Canberra, 25 June 2014, p. 8.

77 Mr Peter Bradbury, Director, ABS, *Committee Hansard*, Canberra, 25 June 2014, p. 8.

- Seller residency:
  - ⇒ To mitigate the risk of including out of scope non-resident to non-resident transactions, and having an effective view of existing stock.
- Purchaser Type, Corporation (and ABN) or individual:
  - ⇒ To identify corporate based ownership structures that may have foreign investors, and allow for derivation of foreign holding through such structures.[78]

3.76 The ABS further emphasises in its supplementary submission:

> Extensions on state transfers and titles offices administrative data have the capability to meet the ABS's requirements to derive high quality estimates. By extending requirements to collect market value of property transacted, settlement date, residency of investor, residency status of purchaser, seller residency and purchaser type all required dimensions to generate quality estimates will be available.[79]

3.77 At the public hearing on 29 August 2014, the committee asked a number of the witnesses for their views on improving the data on foreign investment in Australian property.

3.78 Mr Scott Haslem, Chief Economist, UBS Australia, commented when asked about changes that could improve current data limitations that proof of citizenship on title transfers was one area that should be considered. He further remarked:

> I think we need to ensure that temporary residents, when they vacate at six months, do actually sell those properties, because we are unclear about the cumulative impact of that over 10 or 20 years in terms of stock that is left on the market but owned by someone overseas.[80]

3.79 Also at the public hearing on 29 August, Mr Ray Ellis of First National Real Estate expressed the view that the largely self-regulatory aspects of the industry made monitoring for compliance difficult. He commented:

> The ABS, Foreign Investment Review Board and the Reserve Bank need comprehensive data to better understand the extent of noncompliance. We believe that one of the solutions could be a national rollout of e-conveyancing, which creates the opportunity

78 ABS, *Submission 34.1*, pp. [7, 10-11].

79 ABS, *Submission 34.1*, p. [7].

80 Mr Scott Haslem, Chief Economist, UBS Australia, *Committee Hansard*, Canberra, 29 August 2014, p. 29.

> to consolidate and cross-reference data. It would enable the Foreign Investment Review Board to meet its objectives.[81]

3.80 Mr Andrew Johnston, Senior Analyst, CLSA was also asked at the same hearing for his views on data improvement. Mr Johnston stressed that there was no data on whether temporary residents, such as 457 visa holders, are disposing of established dwellings when vacating the property as required by law:

> If in fact there is a significant amount of temporary visa purchasers who are not selling their established properties when they are leaving… having that data would help us form a view of the extent to which that is a meaningful issue that needs to be addressed.[82]

3.81 The Treasury and FIRB were asked at the public hearing on 29 August to comment on issues that had been raised during the inquiry regarding the integrity of the data. Mr Wilson commented:

> I think it is important to categorise the concerns around integrity of data into what seem to me to be two buckets. One is the integrity of data as it applies to enforcement action or the specific Foreign Investment Review Board approval processes. The other appears to be more of a general view of lack of general economic knowledge or publicly available information on what is actually happening in the property market generally as applies to foreign trends and the like. The first of those obviously are part and parcel of our general remit; the second has been something that has more come out of recent publicity and this inquiry and the various submissions that have been made.[83]

3.82 Based on the evidence received during the inquiry, the committee does not have confidence in the integrity of the current FIRB data on foreign investment in residential real estate. This lack of accurate and timely data represents a fundamental deficiency preventing proper understanding and analysis of the impact of foreign investment on the Australian real estate market.

3.83 The committee inquired of Mr Wilson at the hearing on 29 August whether requiring title registries in the States and Territories to record foreign ownership of land and property, as is done in Queensland alone,[84]

---

81 Mr Ellis, First National Real Estate, *Committee Hansard*, Canberra, 29 August 2014, p. 14.

82 Mr Andrew Johnston, Senior Analyst, CLSA, *Committee Hansard*, Canberra, 29 August 2014, p. 23.

83 Mr Wilson, FIRB, *Committee Hansard*, Canberra, 29 August 2014, p. 40.

84 Queensland Department of Natural Resources and Mines, *Submission 45*, pp. 2-3.

would be beneficial in addressing some of the current data gaps. He responded:

> I think that, generally, having that throughout the country would be helpful to us. As I said earlier, and various other submitters have noted, by far the most effective way to collect data at that level is using the land transfer office—that does get, in a simplified way, to all 500,000 or 600,000 transactions a year.[85]

3.84 Mr Wilson further elaborated on the superiority of this approach in adequately capturing these foreign investment data remarking that it 'generally is the single biggest, relatively cost-effective step that could be taken to shine a light on what is happening here'.[86] He also commented:

> It will be useful to the market and for everybody to understand better what is happening in the marketplace. It will be useful to us, at some level, in a macro sense in trying to determine how our applications and changes in the level of our applications—the various categories of properties—actually marry up to what is happening in terms of actual property transfers. So if we find that the number of tick the boxes for 'I am foreign' on actual transfers doubles, but the number of applications to the FIRB has only gone up 10 per cent, that is going to be useful to us in the macro sense to know that something is going wrong.[87]

Marketing and financing

3.85 The issue of how Australian properties are marketed overseas to prospective buyers and the sources of financing that are used by foreign investors in Australia's real estate market was of interest to the committee throughout the inquiry.

3.86 There are concerns in the community about the marketing of properties to wealthy overseas investors to the exclusion of domestic buyers. Media articles that have reported on this have been cited in submissions to the inquiry.[88]

3.87 At the public hearing on 30 May, the committee asked the Treasury and FIRB whether the exclusive marketing of real estate overseas was permissible under the current regulations. Mr Wilson responded that although an off-the-plan FIRB approval does require that the properties in

85 Mr Wilson, FIRB, *Committee Hansard*, Canberra, 29 August 2014, p. 40.

86 Mr Wilson, FIRB, *Committee Hansard*, Canberra, 29 August 2014, p. 41.

87 Mr Wilson, FIRB, *Committee Hansard*, Canberra, 29 August 2014, p. 41.

88 Ms Pat Sutton, *Submission 7*, Appendix, pp. 9-10; Ms Anne Carroll, *Submission 13*, pp. 15-17; Mr Ian Hundley, *Submission 18*, p. 6.

a development must also be marketed locally, this is not a requirement otherwise. He stated:

> If it is a large approval—advanced off the plan; 100 dwellings or whatnot—that must be marketed to Australians as well as foreigners. I suppose theoretically someone could gain approval to buy a derelict house, knock it down, put up three units and only sell to foreigners. I suppose that would be the case. Each of the foreign buyers in that case, because it would not be an advance off the plan, would be required to notify as with any new property.[89]

3.88 Following questions about the overall trends regarding marketing of Australian properties overseas by real estate agents, REIA responded by saying that this was limited by the fact that most properties are established and cannot be sold to non-residents. Ms Lynch commented that such marketing was not aggressive but was 'just in response to any demand that is out there and inquiries that are taking place'.[90]

3.89 The requirement that at least 50 per cent of a development with an advanced off-the-plan FIRB approval must be purchased locally was removed in 2008 (see Table 2.1). However Mr Nikolouzakis of Nyko property commented at the hearing on 20 June that this change had made no difference to the level of foreign investment because Australian banks would not permit more than a small percentage of the presale portion of a development to be from overseas. He stated:

> I think it made zero difference. For anyone who is getting funding—if you are an Asian developer, who, as you said, is coming in and you are using cash to build it, well that is a different story… We expect our developers prior to going to the market to tell us, 'I need 20 pre-sales, but my bank is telling me that only four or five of those can be overseas developers.[91]

3.90 RP Data commented at the hearing on 27 June that based on anecdotal knowledge, extensive overseas marketing of certain developments of over 100 dwellings does occur. Mr Lawless remarked:

> … I think you will find that a lot of developers do that. They are on the Asian road shows and are marketing very heavily across China, Singapore and Malaysia. You will find that there are particular developments that do have a very high proportion of foreign buyers based on that level of marketing.[92]

---

89 Mr Wilson, FIRB, *Committee Hansard*, Canberra, 30 May 2014, p. 9.

90 Ms Lynch, REIA, *Committee Hansard*, Canberra, 30 May 2014, p. 30.

91 Mr Nikolouzakis, Nyko Property, *Committee Hansard*, Melbourne, 20 June 2014, p. 24.

92 Mr Lawless, RP Data, *Committee Hansard*, Sydney, 27 June 2014, p. 20.

3.91 Also at the 27 June hearing however, Mr James Sialepis, National Sales Director, Meriton Group, commented that he had no knowledge of developments that were wholly marketed overseas. He commented:

> First of all, it is very difficult for developers to market completely and wholly overseas with funding issues at the moment. I think most banks have a cap anyway of 25 or 30 per cent, so unless a developer is completely viable financially, it is very rare for someone to take a development and sell it completely overseas. Definitely, increasing the penalties to prohibit that would be one way, but it would also be very foolish of a developer to sell a development completely overseas to a number of different buyers. Your risk there is massive. There are so many fluctuations between the two economies, between the dollars, between the approval processes—it is a massive risk to take for not much more of a gain or any gain at all.[93]

3.92 On the question of whether there are many instances of 100 per cent overseas marketing of a development, Mr Brown of CBRE responded 'no, I think there are very few of those. If you are doing that, you cannot be borrowing the money locally'.[94]

3.93 As noted in paragraph 3.43, the committee is strongly of the view that Australians must have the same opportunity to purchase a property in any new development as a foreign investor. Developers in possession of a certificate to sell to foreign investors off-the-plan must advertise in Australia, but do not currently face any real penalty if they do not.

3.94 The question of the sources of finance used by foreign investors to purchase Australian property was also addressed during the inquiry, including whether shadow banking played any part. The general view put to the committee was that most of these funds are sourced locally, although this was not supported by evidence from the major banks.

3.95 Mr Mihno of the Property Council of Australia commented at the hearing on 20 June that 'in terms of the domestic developments you will find the majority is onshore and banks'.[95] He remarked:

> If you think about it, in order to minimise your risk, you want to have as much financing onshore as possible to avoid having things like exchange rate risks et cetera. We do not have specific data on hand today on the foreign investment coming in using overseas

93 Mr James Sialepis, National Sales Director, Meriton Group, *Committee Hansard*, Sydney, 27 June 2014, p. 35.

94 Mr Brown, CBRE, *Committee Hansard*, Sydney, 27 June 2014, p. 42.

95 Mr Mihno, Property Council of Australia, *Committee Hansard*, Melbourne, 20 June 2014, p. 8.

> investment. But, to the extent that we have any money going through a financial institution of any sort, we have anti-money laundering laws—which involves 'know your client' et cetera—so that basically filters out grey money and shadow money.[96]

3.96 The RBA comments in its submission that foreign developers in Australia often use offshore financing which 'diversifies the source of funding and at times may increase the overall level of funds available for dwelling investment in Australia'.[97] At the hearing on 27 June, Dr Christopher Kent, Assistant Governor, RBA, commented in relation to the possible contribution of shadow banking to these types of investments:

> It may be a source of some funding for some of the larger foreign developers which are operating here. The foreign developers, the Chinese ones, who are building properties here in Australia might tap into some of that finance to fund their activities here. But I do not think it is likely to be a source of significant funding, if much at all, for foreign buyers.[98]

3.97 Dr Kent also expressed the view that the levels of lending by foreign financial institutions for the purchase of Australian properties are likely to be limited due to the risks involved. He commented:

> … unless that financial institution which is offshore lending that money somehow has some other source of collateral to back that loan, or they have a presence here in Australia and are comfortable that if that foreign borrower were to default that they could get access to some sort of collateral to make good on the loan… they are taking a significant risk.[99]

3.98 Mr Chris Curtis, Managing Director, Curtis Associates, is confident that foreign buyers are sourcing funds locally and commented at the 27 June hearing:

> Yes, without exception. They get it from local banks… from principal banks, the majors. I can think of some of our larger acquisitions done by people who are absolutely, fairly and squarely, foreign non-residents.[100]

3.99 Meriton Group concurs with this view. Mr Sialepis commented at the 27 June hearing that all of the sales to foreign investors by Meriton in the

96 Mr Mihno, Property Council of Australia, *Committee Hansard*, Melbourne, 20 June 2014, p. 8.

97 RBA, *Submission 19*, p. 7.

98 Dr Kent, RBA, *Committee Hansard*, Sydney, 27 June 2014, p. 5.

99 Dr Kent, RBA, *Committee Hansard*, Sydney, 27 June 2014, p. 5.

100 Mr Chris Curtis, Managing Director, Curtis Associates, *Committee Hansard*, Sydney, 27 June 2014, p. 30.

previous 12 months involved financing, and most of these loans were from a local bank. He remarked:

> They go through the same measures, the same valuations, as the local buyers… There is no difference between how they source a loan and how an ordinary Australian would source a loan. The majority of them are using the big four banks.[101]

3.100 Mr Brown commented however that financing for CBRE sales to foreign investors is often sourced from their home countries. He remarked in relation to his overseas customers:

> There is a mixture. They generally will try, if they can, to borrow where their income is earned, because they can hedge that and they are generally lower interest rates than Australia. Others that have bought a number of properties in Australia over the time have used the local bank. Our banks are also starting to get more of an inroad, particularly into Asia… [102]

3.101 At the public hearing on 29 August, Mr McGrath of McGrath Estate Agents, in responding to this same issue, remarked that some foreign investors pay cash but that those requiring financing are using Australian banks:

> Those that are not paying cash are being funded, generally, through Australian banks. In fact, we often work very closely with the Asian units within the Australian banks to develop connections and to assist their clients find the right investment. So I would say that the majority would be through, if not Australian banks, banks like HSBC that are perhaps external banks that have strong local profiles here.[103]

3.102 The committee notes that the view that foreign investors mainly source financing of residential property purchases from Australian banks is not supported by the Australian banks themselves. For example, Mr Brad Gravell, General Manager, Deposits and Mortgages, ANZ Bank, informed the committee at the 20 June hearing in Melbourne that about 0.3 per cent of the mortgage portfolio at ANZ comprised loans to offshore foreign investors. He added:

101 Mr Sialepis, Meriton Group, *Committee Hansard*, Sydney, 27 June 2014, p. 36.

102 Mr Brown, CBRE, *Committee Hansard*, Sydney, 27 June 2014, p. 39.

103 Mr McGrath, McGrath Estate Agents, *Committee Hansard*, Canberra, 29 August 2014, p. 17.

> … of all of the residential investment coming from offshore, based on our personal experience, only a small proportion is financed by Australian institutions.[104]

3.103 At the Sydney hearing on 27 June, Mr Steven Munchenberg, Chief Executive Officer, Australian Bankers' Association, concurred with these comments:

> As I understood it and I had a conversation with other banks, the evidence given to you by ANZ seems fairly typical… to the extent that we are looking at non-resident foreign investors into Australia, my expectation would be a typical non-resident foreign investor into Australia is wanting to invest money from overseas into the Australian market. They are not going to be coming to us for a mortgage. They have got the money.[105]

3.104 When queried about the conflicting advice regarding the sources of finance for foreign investors in the property market, Mr McGrath responded at the 29 August hearing:

> It is odd because most of the banks—in fact all the big banks that we are dealing with now—have well-equipped, well-organised Asian units dealing with these generally high-net-worth entities—though not essentially or exclusively. I think two of them have half a dozen or more people, so they have got to be servicing a lot of clients and often in that process we are called in and we meet with their bankers and have discussions. So it is surprising, but it could well be that the left hand is not talking to the right and there could be funding taking place that the people that you are getting the information from are unaware of.[106]

3.105 The committee notes that this remarkable degree of contrary evidence will be dealt with by stronger reporting requirements as explored and recommended later in this report.

Impacts of foreign investment in residential real estate

3.106 An examination of the economic benefits of foreign investment in residential real estate is a central part of this inquiry. Treasury submits that notwithstanding the data limitations in this area, foreign investment in residential property increases the demand for, and supply of, housing;

104 Mr Brad Gravell, General Manager, Deposits and Mortgages, ANZ Bank, *Committee Hansard*, Melbourne, 20 June 2014, p. 33.

105 Mr Steven Munchenberg, Chief Executive Officer, Australian Bankers' Association, *Committee Hansard*, Sydney, 27 June 2014, pp. 45-46.

106 Mr McGrath, McGrath Estate Agents, *Committee Hansard*, Canberra, 29 August 2014, p. 17.

is likely to put downward pressure on rental costs; and increase government revenue from stamp duties and higher economic activity that flows from these additional investments.[107]

3.107 HIA submits that 'the market structure is such that there would likely be fewer new homes built for domestic buyers in the absence of demand from foreign buyers'.[108]

3.108 Meriton Group concurs that foreign investment is a vital component of Australia's real estate sector and contributes to its development:

> Although offshore buyers represent only a small percentage of Australia's overall sales, this market is an important factor in maintaining business confidence and giving developers the impetus and security to embark on new projects – directly increasing the supply of new housing. If Australia wishes to keep housing affordable and to keep developers building, it is imperative that we embrace foreign investment in real estate and the certainty it can bring to industry.[109]

3.109 Meriton Group further comments in its submission on the economic benefits of foreign investment into Australian residential property:

> This investment also contributes significantly to the local economy, adding to jobs in the building and construction industry and related supply and services sectors, and providing drive for the development of related social infrastructure.[110]

3.110 REIA conclude from their analysis that foreign investment is having a direct impact on housing supply in Australia, submitting:

> … the change in the level of approvals for foreign investment and the change in the number of residential buildings approved for construction follow similar paths suggesting that there is a relationship and that foreign investment, or at least the prospect of foreign buyers for new developments, is increasing the supply of new housing. This is supported by anecdotal evidence from the market which suggests that many, particularly large scale, developments would not occur had it not been for the prospect of foreign buyers.[111]

107 The Treasury, *Submission 31*, p. 9.

108 HIA, *Submission 20*, p. 3.

109 Meriton Group, *Submission 14*, p. [1].

110 Meriton Group, *Submission 14*, p. 1.

111 REIA, *Submission 17*, p. 6.

3.111 The RBA comments on a variety of positive benefits flowing from foreign investment in real estate, submitting:

> … foreign demand for Australian dwellings can – and has – provided a stimulus to the local residential construction industry, which accounts for around 9 per cent of total employment in the Australian economy and is more labour intensive than most other industries. In addition, to the extent that materials used in the construction industry are sourced domestically, an increase in residential building supports local suppliers of building materials and can boost demand for household durable goods. The Bank's liaison contacts report that foreign residential demand has been especially helpful in boosting construction activity in the current stage of the economic cycle… [112]

3.112 The RBA further comments in its submission that 'the impact of foreign residential developers in adding to the overall supply of new dwellings in Australia is more difficult to determine, although on balance it is probably positive'.[113]

Fact Box

According to HIA, Australia averaged approximately 156,000 new home commencements between 2004 and 2013. HIA's conservative estimate is that 180,000 new dwellings per annum must be built between now and 2050 to meet Australia's supply needs.

3.113 At the public hearing on 27 June, the RBA was queried on the positives and negatives associated with foreign investment. Dr Kent responded by reiterating the view that foreign demand has probably boosted construction. He further remarked:

> An obvious other economic benefit, if you like, is that many of these purchases are associated, as best as we can tell, with foreign students—reasonably well-off foreign students whose parents are perhaps buying them apartments rather than renting them something and along the way therefore contributing to construction. More generally, though, I think that these sorts of purchases are associated also with business links of different types and other capital inflows and business opportunities.[114]

112 RBA, *Submission 19*, p. 7.
113 RBA, *Submission 19*, p. 7.
114 Dr Kent, RBA, *Committee Hansard*, Sydney, 27 June 2014, p. 2.

3.114 Master Builders Australia comments in its submission that its anecdotal evidence supports a positive effect of foreign investment on housing supply.[115]

3.115 Property Council of Australia also emphasises in its submission that international investors play an important role in boosting the supply of Australian homes:

> The average capacity of the domestic residential development industry is 150,000 dwellings per annum. Global investment in Australian residential real estate, has potential to add a further 5,000 – 10,000 new dwellings per annum… International investors have sought approval for 1,821 vacant development sites in Australia in FY 2012-13. These developments are creating new development that is being injected into the rental market. [116]

3.116 SMATS Group agrees that foreign investment makes an important contribution to housing supply, remarking:

> Foreign investors are an important part of the supply equation in Australia… newly constructed dwellings of foreign investors provide important rental accommodation and expansion of projects and estates that may otherwise not attract sufficient pre-sales to permit financing to begin and allow many larger scale projects to move from concept to reality.[117]

3.117 At the public hearing on 20 June, Mr Rod Cornish, Division Director, Macquarie Group Limited, also expressed the view that foreign investment boosts housing construction and supply. He commented:

> … it does increase supply, and we will see this over the next couple of years. So if you look at housing approvals, for the last 12 months there were 188,000 dwelling approvals. That is trend numbers from the Australian Bureau of Statistics. That is the highest in 19 years and a high proportion of that—36 per cent—is apartments. So if you look historically, that is a very high proportion. The foreign developers came in fairly early in 2012, purchased a number of sites that had been in some cases trying to find buyers over an extended period of time.[118]

---

115 Master Builders Australia, *Submission 22*, p. 3.

116 Property Council of Australia, *Submission 25*, p. 8.

117 SMATS Group, *Submission 35*, pp. 4-5.

118 Mr Rod Cornish, Division Director, Macquarie Group Limited, *Committee Hansard*, Melbourne, 20 June 2014, p. 28.

3.118 The committee notes the generally positive comments from the industry stakeholders about the impacts of foreign investment and the need for foreign demand to continue to assist the domestic building industry and housing supply. Improvements in the data collected through the establishment of a national register of the residency status of the buyer of a property, as outlined in Chapter 2, will make these impacts clear.

Conclusion

3.119 There is a current lack of timely and accurate data on foreign investment in residential real estate. The consequences of this include:

- an inability to determine the real number and value of these investments;
- difficulty in assessing economic and social benefits such as the contribution to housing supply;
- difficulty in ascertaining levels of non-compliance with the regulatory framework;
- potential eroding of public confidence in the value of foreign investment in the housing market;
- inadequacy of the evidence base upon which policy makers can make informed choices.

3.120 Information on the nationality and residency status of the purchaser on a title transfer would be one of the most effective solutions to this problem. The views of State and Territory Ministers with responsibility for land titles were sought on how a scheme which recorded this information and made it available on a national database could be implemented in practice. The views of Ministers varied but responses from most jurisdictions indicated that such a scheme could be implemented in some form, with appropriate consultation, funding and any necessary changes to legislation.

3.121 The Victorian Government response noted that 'States and Territories are committed to making property transfer processes as consistent across jurisdictions as reasonably practical'.[119] Other responses indicated that the introduction of a national e-conveyancing scheme was well advanced, with four States to be participating by the end of the year and the remaining States and Territories expected to join by early 2016.[120]

119 Minister for Planning, Victoria, *Submission 69*, p. 3.

120 For example, see Attorney-General, Northern Territory, *Submission 70*, p. 2.

3.122 In this regard, the Queensland Government response noted that if the Commonwealth Government wished to develop a single database which recorded the nationality and residency status of property purchasers, 'there may be some limited capacity to leverage off data processed through the national e-conveyancing system (known as PEXA – Property Exchange Australia).'[121]

3.123 The Government should enter into negotiations with the States and Territories to develop a nationwide framework requiring that documents for the transfer of property titles state this information in a way that can be collected by relevant agencies such as the Treasury and ABS. A possible component of such a framework could be the establishment of a single electronic registry, for instance under the Australian Securities and Investments Commission (ASIC). This would facilitate data-matching from a single database.

3.124 Notwithstanding that a national register should be developed, existing data, such as that contained in the Queensland register, should be used by FIRB to supplement current data while the national register is being developed.

Recommendation 8

3.125 **The Committee recommends that the Government, in conjunction with the States and Territories, establish a national register of land title transfers that records the citizenship and residency status of all purchasers of Australian real estate. This information should be accessible by relevant agencies from a single database.**

3.126 This title transfer data will also contribute to compliance and to the enforcement of existing rules. This is particularly pertinent to the purchase of established dwellings by temporary residents. It would be useful to develop an alert system through the existing visa entitlement verification online (VEVO) resource whereby the Department of Immigration and Border Protection would inform the Treasury when temporary visas expire and whether a permanent residency visa has been issued. This information could then be cross-checked against the title transfer database and allow a divestment order to be issued if necessary.

121 Minister for Natural Resources and Mines, Queensland, *Submission 71*, p. 1.

3.127 The committee is of the view that information sharing between relevant Commonwealth agencies and the FIRB need to be enhanced in conjunction with improvements to the internal processes at the Treasury's Foreign Investment and Trade Policy Division. As discussed below, the committee believes that this same principle should also apply to AUSTRAC data.

3.128 The committee firmly believes that there should be no barriers to the screening by FIRB of temporary residents who may be no longer using an established dwelling as a primary residence in Australia.

3.129 The committee is aware that current provisions in the *Migration Act 1958* prevent the Department of Immigration and Border Protection (DIBP) from informing FIRB when a temporary resident has left Australia after expiry of their visa.[122] It is the committee's view that this legislation should be amended to require DIBP to provide this information to FIRB and that FIRB should establish effective processes to continually cross check this incoming data against their existing property databases to ensure compliance with foreign investment rules. As outlined in paragraph 2.126, the committee believes that Australia's Foreign Investment Policy should be amended to explicitly state the requirement for a temporary resident to divest an established property within three months if it is no longer a primary residence.

Recommendation 9

3.130 **The Committee recommends that the Government establish an alert system for the expiry of temporary visas that can be used by the Treasury to issue property divestment orders in cases of non-compliance:**

- **by amending the *Migration Act 1958* so that the Department of Immigration and Border Protection must inform FIRB when a temporary resident departs Australia upon expiry of their visa; and**
- **by establishing effective and timely internal processes at the Treasury to receive and cross-check this information against its property databases to screen for compliance with the foreign investment framework.**

122 Department of Immigration and Border Protection (DIBP), *Submission 50.1*, p. 1.

3.131 Not all new developments need to be marketed in Australia under the current rules. Only properties in large developments that receive an advanced off-the-plan certificate from the FIRB have such a condition. There should be a requirement, however, that domestic investors receive the same information and opportunity to purchase a new property as a foreign buyer. All new properties for sale that are marketed overseas must be advertised to a reasonable extent in Australia for the same duration. As noted earlier in this chapter, currently no real sanctions apply to developers who fail to market domestically under the foreign investment framework.

Recommendation 10

3.132 **The Committee recommends that the Government amend the *Foreign Acquisitions and Takeovers Act 1975* to provide that residential property sold under off-the-plan certificates that is marketed for sale overseas, must be marketed in Australia for the same period of time. Breaches of this requirement should be subject to sanctions under the Act ranging from fines to the cancellation of a sale.**

3.133 The sources of financing used by some foreign nationals to purchase residential real estate in Australia is a potential concern, including the possibility that shadow banking may be involved in some cases. The extent of this issue is uncertain but it would be prudent to ensure that any transactions involving an overseas purchase of an Australian property can be thoroughly investigated if considered suspicious. This should be an area that is considered when the review into anti-money laundering legislation is finalised in 2015.

3.134 The committee thus considers that it would be desirable for the Treasury and FIRB to use AUSTRAC data where applicable, as part of its internal screening processes of foreign purchases of real estate.

Recommendation 11

3.135 **In light of the expected finalisation of the statutory review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 in early 2015, the Committee recommends that the Government consider the purchase of residential property by foreign investors as a possible area of investigation when considering amendments to the legislation.**

Recommendation 12

3.136 **The Committee recommends that Treasury's Foreign Investment and Trade Policy Division make greater use of the databases held by AUSTRAC, and also of other relevant Federal and State Government databases, to assist the Foreign Investment Review Board in its duties and responsibilities.**

3.137 It is vitally important that the current data limitations are addressed as described above, as this will improve compliance and enforcement and contribute to public confidence in the current policy settings. As also discussed in this chapter, it is important to ensure that Australians are not excluded from any sections of the property market and have equal opportunities to bid for any property that comes up for sale.