Parliamentary Budget Office

Policy costing

Doubling Foreign Investment Review Board (FIRB) fees and penalties	
Party:	Australian Labor Party

Summary of proposal:

The proposal has three components.

- Component 1: Double the application fees for foreign investment in residential real estate.
- Component 2: Double the civil and criminal financial penalties for foreign buyers who acquire new or existing dwellings without approval.
- Component 3: Double the maximum penalties for the following eight 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 four 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 condition that requires them to notify of actual purchase and sale of established properties.
  – Third party assists foreign investor to breach rules.

The proposal would have effect from 1 July 2019, and would be announced in advance.

Costing overview

The proposal would be expected to increase the fiscal and underlying cash balances by $305 million over the 2019-20 Budget forward estimates period. This impact entirely reflects an increase in revenue. The proposal would also be expected to increase both the fiscal and underlying cash balances by $21 million in 2018-19, as some applications for foreign investment in residential property would be expected to be brought forward from 2019-20.

Table 1: Financial implications ($m)[(a)(b)]

	2019–20	2020–21	2021–22	2022–23	**Total to 2022–23**
Fiscal balance	41	81	91	91	**305**
Underlying cash balance	41	81	91	91	**305**

(a) A positive number represents an increase in the relevant budget balance; a negative number represents a decrease.
(b) Figures may not sum to totals due to rounding.

A breakdown of the financial implications of this proposal over the 2019-20 Budget forward estimates period is included at Attachment A. The proposal would be expected to have an ongoing impact beyond the 2019-20 Budget forward estimates period.

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 weaker market conditions.[1]

Key assumptions

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

- Bring-forward of applications: some applications for foreign investment in residential property that would have been made in 2019-20 under current policy settings are brought forward to 2018-19 in order to avoid the higher fees.
  - This leads to an increase in revenue in 2018-19 and a reduction in the revenue gain in 2019-20.
- Decline in applications: there would be a small decline in the total value of applications for foreign investment in residential property as a result of this proposal.
- Decline in penalties: there would be a significant behavioural response to the doubling of penalties under Components 2 and 3.
  - 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.

[1] Foreign Investment Review Board, 2019. *Annual Report 2017-18*, Canberra: Commonwealth of Australia 2019. p. 38.

Methodology

- The impact of the proposal was calculated by comparing estimated fee and penalty revenue under the proposal with fee and penalty revenue at the most recent baseline (2019 Pre-election Economic and Fiscal Outlook), incorporating the behavioural responses outlined above.
- Estimates of revenue from penalties (Components 2 and 3) have been quantified together due to uncertainty regarding the revenue breakdown of different penalties.
- Estimates of revenue from fees (Component 1) have been rounded to the nearest $10 million and estimates of revenue from penalties (Components 2 and 3) have been rounded to the nearest $1 million.

Data sources

The Australian Taxation Office provided forecasts for revenue associated with fees collected from foreign investment over the period to 2022-23.

The Treasury provided forecasts of the revenue from residential and business fees collected from foreign investment over the period from 2015-16 to 2018-19.

Foreign Investment Review Board, 2019. *Annual Report 2017-18,* Canberra: Commonwealth of Australia.

Commonwealth of Australia, 2019. *2019 Pre-election Economic and Fiscal Outlook*, Canberra: Commonwealth of Australia.

Attachment A – Doubling Foreign Investment Review Board (FIRB) fees and penalties – financial implications

Table A1: Doubling Foreign Investment Review Board (FIRB) fees and penalties – Fiscal and underlying cash balances ($m)[(a)(b)]

	2019–20	2020–21	2021–22	2022–23	**Total to 2022–23**
Revenue					
Component 1 *Double the application fees for foreign investment applications*	*40*	*80*	*90*	*90*	***300***
Components 2 and 3[(c)] *Double the financial penalties for non-approved dwelling acquisitions by foreign buyers and other breaches*	*1*	*1*	*1*	*1*	***5***
Total – revenue	**41**	**81**	**91**	**91**	**305**

(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.

(b) Figures may not sum to totals due to rounding.

(c) Components 2 and 3 have been quantified together due to uncertainty regarding the revenue breakdown of different penalties.