CERC

Leadership for Workforce Mobility

CERC Submission in Response to the CMHC Consultation Paper:

PROHIBITION ON THE PURCHASE OF RESIDENTIAL PROPERTY BY NON-CANADIANS ACT

The Canadian Employee Relocation Council (CERC) represents the interests of the employee relocation industry in Canada. The CERC is a not for profit organization comprised of employers in every major industry in Canada that relocate their employees and the service partners that facilitate those employer sponsored relocations.

After careful review and consideration of the proposed policy directions for the implementation of the prohibition on the purchase of residential property by non-Canadians, as published by CMHC, we have substantive concerns with the proposals.

"We will make the market fairer for Canadians. We will prevent foreign investors from parking their money in Canada by buying up homes. We will make sure that houses are being used as homes for Canadian families rather than as a speculative financial asset class." **Deputy Prime Minister Freeland**

While these objectives are a positive step to protect the supply of houses in the Canadian marketplace, the proposed policy directions will negatively impact an extensive group of foreign nationals and residents of Canada.

- In our view the proposed regulations unnecessarily punish thousands of hardworking Canadians and their families that are being relocated by their employer for employment purposes.
- The proposed regulations unfairly treat foreign nationals with valid work and study visas seeking to immigrate to Canada by prohibiting them from owning a home.
- The proposed regulations stifle the competitiveness of Canadian companies looking to relocate staff for business operations.
- The proposed regulations are creating uncertainty for employers, relocation management companies and, most importantly, employees.

Foreign Students with Valid Work Permits

To be exempt from the Act the following proposed conditions must be in place

- "Has filed a Canadian income tax return for each of the five taxation years preceding the year in which the purchase is made; and
- Has been physically present in Canada for a minimum of 275 days in each of the five calendar years preceding the year in which the purchase is made.

- The exception would be limited to the purchase of residential property not exceeding a purchase price of $500,000, anywhere in Canada."

Concerns

1. These requirements will serve to deter foreign students from selecting Canada as a destination for studying. This places Canada in an uncompetitive position with other countries.
2. The requirements will also reduce the number of students transitioning to PR at the conclusion of their studies.
3. There is no clear rationale for setting the minimum number of days at 275 days or 9 months and is not aligned with school semesters.
4. Finding a property of less than $500,000 is highly unlikely in most metropolitan cities in Canada.

Recommendations

Structure the regulations to permit students who hold a study permit valid for at least 1 year, and are studying and residing in Canada, to purchase a home.

Foreign Nationals with Valid Work Permits

To be exempt from the Act the following proposed conditions must be in place:

- "Holds a valid work permit as defined in section 2 of the Immigration and Refugee Protection Regulations, or is otherwise authorized to work in Canada in accordance with section 186 of the Regulations;
- Has worked in Canada for a minimum continuous period of three years within the past four years, where the work meets the definition set out in s. 73(2) of the Regulations; and
- Has filed a Canadian income tax return for a minimum of three of the past four taxation years preceding the year in which the purchase is made."

Concerns

1. Foreign workers are not speculative investors in the Canadian residential property market. When they come to Canada to work, they are typically accompanied by their family members and need a home to live in, be it a rental or purchased home.
2. Many will sell their home abroad when they relocate to work in Canada and will be looking to reinvest their capital in a new family home upon arrival in Canada.
3. Given Canada's critical skills shortages these requirements will place Canada in an uncompetitive position when compared to other countries where such restrictions on the purchase of residential property by foreign nationals may not exist.
4. Senior executives, highly skilled and in demand international talent are scarce the world over, and they have choices for destination countries when considering relocation. These proposed restrictions will deter the brightest and the best from emigrating to Canada and hurt this country's competitive position in the war for talent.
5. Foreign workers are a source of new permanent residents. The faster they and their family settle (housing, schooling etc.), the more likely they are to envision Canada as their permanent home, and the more likely they will be to apply for permanent residence.

6. The proposal is contrary to the open and progressive immigration environment Canada has strived to build over so many years and is inconsistent with the policy demonstrated by the ambitious targets for permanent residence that the government recently announced.
7. The proposal conveys a negative message about Canada's immigration system. The message here is "*You can come to Canada, but you can't purchase a home for three years!*"
8. Many companies provide benefit support to relocating inbounds to Canada in the form of reimbursement for some home purchase costs.
9. Encouraging foreign workers to purchase a home upon arrival in Canada helps increase retention rates and integration into Canadian society.
10. The proposal has the potential to undermine Canada's international trade agreements that are intended to facilitate labour mobility with its trading partners. The proposal may also motivate other countries to implement similar actions, impacting Canadian employees relocating overseas.
11. The proposal could negatively impact Canada's innovation agenda and deter foreign investment.

Recommendation

The regulations should provide an exemption for any foreign national with a valid work permit who is working and residing in Canada.

Non Canadian owned corporations

"The policy intent is to establish an all-encompassing definition of purchase, which reflects the fact that non-Canadians may structure purchases directly, or through vehicles such as corporations, partnerships, trusts or other entities"

Concerns

Relocation Management Companies (RMCs) manage employee relocations on a global scale for corporate clients. The majority of those companies are US owned, since the relocation industry grew out of the US domestic relocation activity. The majority of RMCs with operations in Canada are incorporated in Canada as subsidiaries or as branch offices of foreign owned corporations.

In certain circumstances the RMC will purchase the employee's property (at fair market value) on behalf of the employer to expedite / facilitate a successful relocation. The property is immediately listed for resale by the RMC.

Relocation Management Companies are not speculative investors in the Canadian residential property market. These companies are providing much needed and valuable services that contribute to the Canadian economy through the movement of talent.

The following examples are provided to illustrate the impact of the restrictions on employee relocation transactions.

<u>Example 1</u>

Susanna and her family are being relocated from Toronto to Vancouver effective January 31, 2023. The relocation is employer sponsored and an RMC is managing the relocation. The RMC is a foreign owned subsidiary incorporated in Canada.

The market in Toronto is softening and it is taking a longer period of time to sell the family residence.

The RMC, acting on behalf of Susanna's employer, enters into an agreement with Susanna to purchase the home on January 2, 2023. Susanna and family receive the sale proceeds and now have funds to purchase a home in Vancouver.

The RMC continues to market and maintain the property until sold.

The regulations as proposed will prohibit the RMC from purchasing the home from the employee.

Example 2

Susanna and her family are being relocated from Toronto to Vancouver effective Jan 31, 2023. The relocation is employer sponsored. Susanna is employed by a foreign owned subsidiary incorporated in Canada. Under the company's employee relocation program, the employer will provide a home purchase from the employee in order to expedite the sale and facilitate a successful relocation.

The market in Toronto is softening and it is taking a longer period of time to sell the family residence.

Susanna and her employer enter into an agreement on Jan 2, 2023, to sell the property to the employer for fair market value.

Susanna and family receive the sale proceeds and now have funds to purchase a home in Vancouver. The employer continues to market and maintain the property until sold.

The regulations as proposed will prohibit Susanna's employer from purchasing the home.

This will impact thousands of hard working people and their families from moving for employment opportunities sponsored by their employer. According to estimates provided by our members there are approximately 10,000 families per year that receive this support.

Recommendations

1. Exempt all transactions related to the purchase of residential properties for employer sponsored employee relocations, where the transaction involves foreign owned relocation management companies or wholly owned subsidiaries of foreign corporations without share capital in Canada. This could easily be accomplished through a registry of foreign owned relocation management companies and wholly owned subsidiaries of foreign corporations without share capital in Canada.

Conclusion

The impact of the proposed regulations is clearly contradictory to the intent of the Act, as stated by Minister Freeland

> *"We will make the market fairer for Canadians. We will prevent foreign investors from parking their money in Canada by buying up homes. We will make sure that houses are being used as homes for Canadian families rather than as a speculative financial asset class."*

The recommended amendments CERC has proposed in this submission will not undermine the government's overall objective to prevent foreign speculators from the Canadian housing market, while ensuring that houses are being used as homes for Canadian families.