

Advisory

Notice of New Federal Legislation Prohibiting the Purchase of Residential Property by Non-Canadians

Date:	December 14, 2022
Distribution:	Real Estate Licensees, Real Estate Development Industry, Mortgage Brokers, Credit Unions, and Interested Parties
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PURPOSE

The purpose of this Advisory is to inform regulated entities of the federal government's newly enacted [Prohibition on the Purchase of Residential Property by Non-Canadians Act](#) ("the Act"), which is set to come into force on January 1, 2023.

OVERVIEW OF CHANGES

The Act prohibits individuals who are not Canadian citizens or permanent residents of Canada (collectively, "non-Canadians") from purchasing residential property in Canada for a period of two years. The prohibition also applies to corporations that are not incorporated in Canada or are controlled by non-Canadians.

Additional details regarding the prohibition will be addressed in supporting regulations from the federal government, which are expected to be issued before January 1, 2023.

While the Act does not directly impact the provision of real estate services or mortgage lending, it does introduce restrictions to future agreements of purchase and sale of residential property that regulated entities should be aware of. The Act:

- Prohibits non-Canadians from directly or indirectly purchasing residential property in Canada for a period of two years, which includes purchases made through corporations, trusts, or other legal entities;
- Applies to residential property, which includes detached homes or similar buildings of one to three dwelling units as well as parts of buildings such as semi-detached houses, strata units, or other similar premises;
- Establishes penalties for non-compliance applicable to non-Canadians, as well as any person or entity knowingly assisting a non-Canadian in contravening the prohibition;
- Establishes that a contravention of the prohibition could result in a court-ordered sale of the residential property, which would result in the non-Canadian receiving no more than the purchase price paid for the property; and
- Sets out exemptions for certain classes of people such as: refugees, individuals who purchase residential property with their spouse or common-law partner (provided the spouse or common-law partner is eligible to purchase residential property), temporary residents in Canada who satisfy the prescribed conditions in the regulations, and other classes of persons set out in the regulations.

CONSIDERATIONS FOR REGULATED ENTITIES

Regulated entities should review the Act to ensure they are aware of who the prohibition applies to and how residential property is defined so they are able to advise and inform potential clients of the new restrictions on residential property sales. Regulated entities should be aware that once the Act is in force, any person

or entity that “counsels, induces, aids or abets” a non-Canadian to purchase directly or indirectly any residential property, is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000. Therefore, regulated entities should consider making reasonable inquiries to determine whether a buyer is a non-Canadian for the purposes of the Act before assisting with a transaction for residential property.

If regulated entities are unsure if a client, property, or transaction is captured by the Act, they should advise their client to seek legal advice before continuing to provide their services. Regulated entities that utilize standard-form contracts of purchase and sale may want to consider changing them to contain assurances from buyers that they are not a non-Canadian within the meaning of the Act.

Regulated entities should also review the supporting regulations once released to ensure they understand the exemptions, as well as the full scope and application of the prohibition.

ADDITIONAL INFORMATION

To learn more, please refer to:

- The [Prohibition on the Purchase of Residential Property by Non-Canadians Act](#);
- The Department of Finance Canada’s [news release](#); and
- Canada Mortgage and Housing Corporation’s [news release and FAQ](#).

If you have questions about this Advisory, contact BCFSa’s [practice standards advisors](#) or your relationship manager.