Divorce - You Don’t Need A Spouse To Keep The house?

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What You Will Learn in This Session

1) How new mortgage rules and interest rates will impact your clients

- new "stress-test" and key changes rules affect you

2) Some ways to help your clients or their ex spouses to keep the matrimonial home

3) Real estate division and valuation – ways to make it less contentious

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Bank of Canada
October 25th, 2017 Announcement

October 25, 2017, Bank of Canada announced it was keeping overnight lending rate on hold at 1%. Rate rose by 0.25% in July and again in September. Since then, the Bank has cautioned that future interest rate increases depend on if economic data suggests that inflation is starting to occur.

The Bank also updated its economic forecast. On balance, it supports the prevailing sentiment among private sector economic forecasters and financial markets that the Bank will be cautious when raising interest rates further. Private sector forecasts currently suggest that interest rates will rise by 1/2% to 1% by the end of 2018.

Bank of Canada

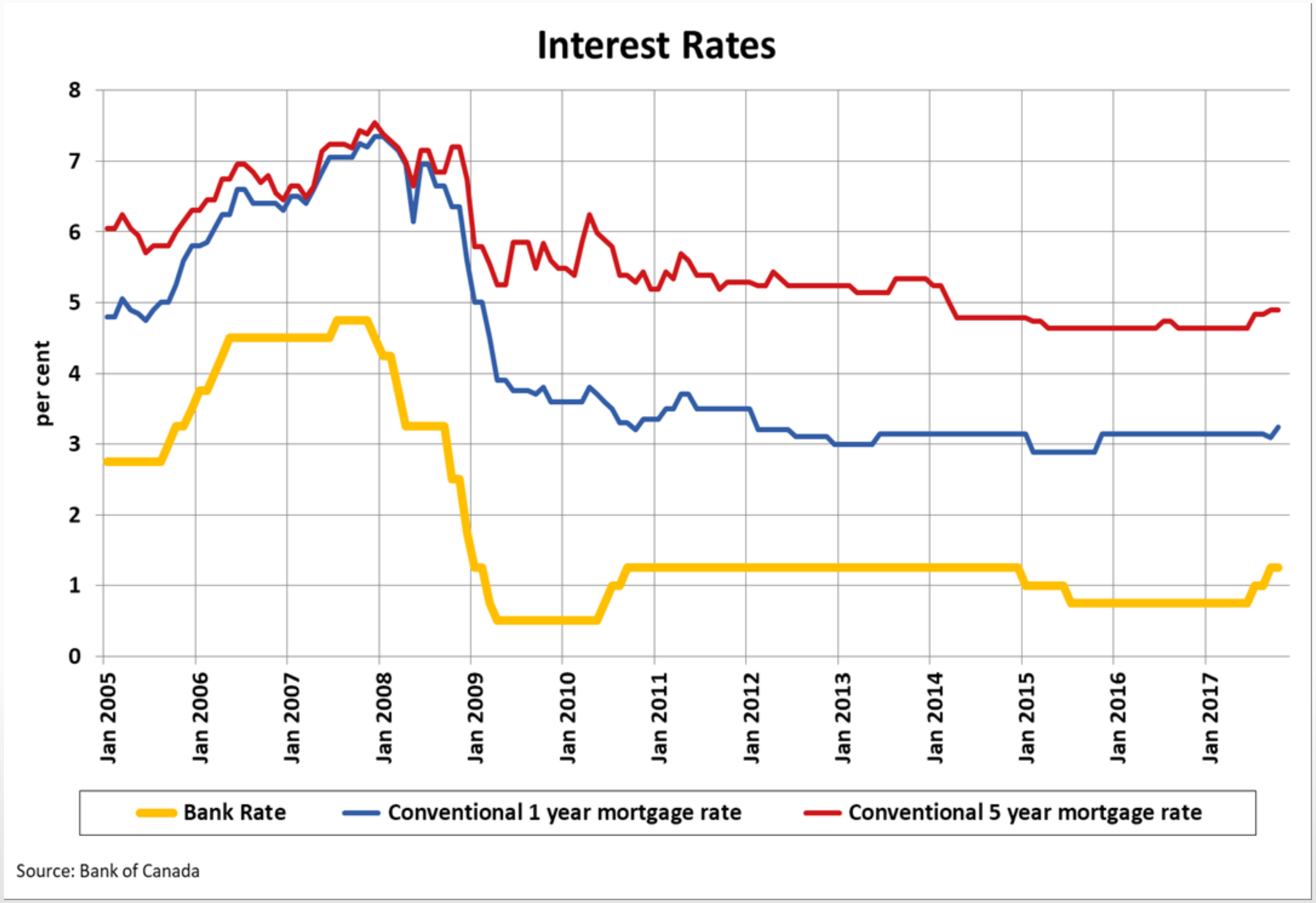
October 25th, 2017 Announcement

As of October 25, 2017, the benchmark five-year lending rate stood at 4.89%, which is the rate used to qualify mortgages with less than a 20% down payment. The benchmark five-year lending rate is 0.05 percentage points higher than when the Bank made its previous interest rate announcement and up 0.25 percentage points versus one year ago.

Canada's major chartered banks raised their 'advertised' five-year fixed mortgage interest rates, which now range between 3.04% and 4.89%.

Key Dates: **Next Rate Announcement – December 6th, 2017**
Next Monetary Policy Report – January 17, 2018

Interest Rate Update



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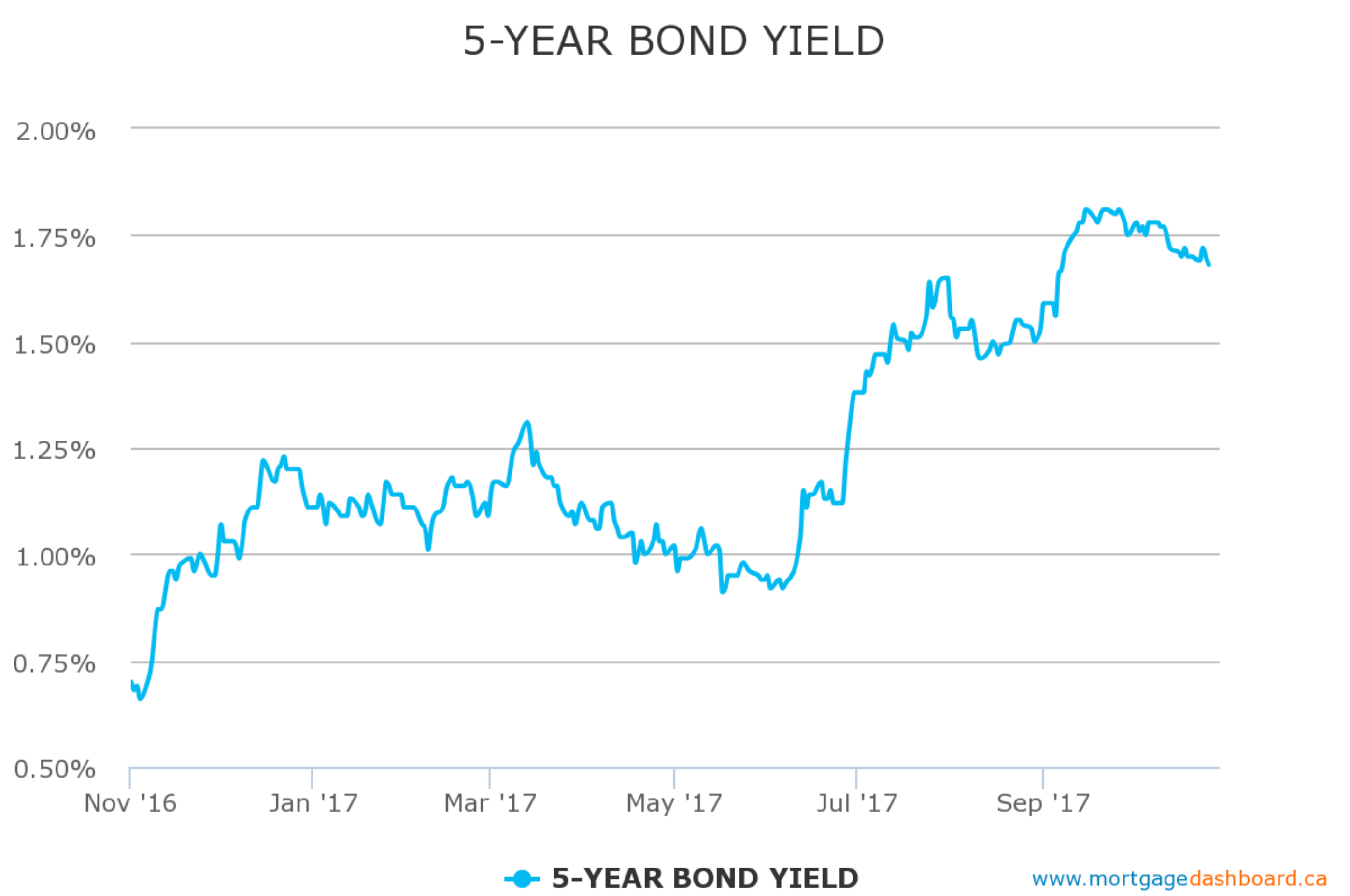
KEY CR TIP

Remember that bond yields drive fixed mortgage rates

5 Year Government Bond

Bond Yields as of October 26th 2017



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How to replicate rates increases without increasing rates

1) Policy changes that effect the demand or supply of housing will also impact pricing – watch local, provincial and federal policy for market impact

2) Tightening mortgage rules replicates rates changes from a qualification stand point

- Higher qualifying rates…. coming January 2018

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B-20: What's happening?

- B-20 are the guidelines put out by Office of the Superintendent of Financial Institutions (OSFI) governing mortgages
- The rules have been changed six times since 2008!
- The new regulations start January 1, 2018 and are unique since they put new qualifications in place even for borrowers with a low-LTV ratio who put over 20% down… without exception

B-20: What's happening?

- Previously, only insured mortgages had to be "stress-tested"
- Federally regulated lenders now must qualify you for the **greater of** the Bank of Canada's five-year benchmark rate (presently 4.89%) or 2% above the contract rate
- You may have to qualify at above 5%

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Overview: How to help your client keep the matrimonial home

- Why dividing real estate is often the most contentious negotiating point during a divorce
- What Ontario law says about the matrimonial home during a divorce
- Choosing the right financing option for your client
- Strategies for streamlining your client's finances

Asset division & Ontario family law

- You get to exit the marriage with what you entered
- You only share the increase in net worth between the date of marriage and the date of separation
- Ontario law tries to ensure that each party exits the marriage with equal net worth
  - This can be accomplished through regular equalization payments, lump-sum transfers and the division of assets

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The Key Property Exception

- The matrimonial home is a unique asset ….even if one spouse owned the home before the date of marriage, it is still divided equally upon separation
- Both parties in a marriage are entitled to half of this asset as long as it is:
- 1) Owned by one of the spouse and 2) Occupied on the date of separation
- Multiple properties can be considered a matrimonial home, such as a cottage

The Real Estate Valuation Problem

- The matrimonial home is a unique asset has value beyond its financial value
- The valuation of real estate is subjective in the eyes of real estate owners
- Real estate investment assets are not as valuable to owner if the owner is the paying spouse
- Multiple properties can be considered a matrimonial home, such as a cottage

Critical Reality Check

When it comes to separation lenders don’t treat women and men equally…. Can be as antiquated as family law.

CASE STUDY – Tale of Two Bank Vice Presidents

Both MBA grads

She makes more…

Same lender … different document requirements

SIGNED AGREEMENT ON PAYMENTS VERY KEY!

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ALTERNATIVES – Spousal buy-out

Matrimonial home is in many cases (especially today) the single largest asset on the household balance sheet

- If one party wishes to remain in the matrimonial home, they may “buy-out” the other spouse
- Valuation is often a contentious issue – but buy out makes this somewhat easier as it’s lender valuation

ALTERNATIVES – Spousal buy-out

Matrimonial home is in many cases (especially today) the single largest asset on the household balance sheet

- Spouse may be eligible for a loan up to **95% of your home's value** if you meet the following criteria:
  - Both parties are on the title prior to the legal separation
  - Finalized separation agreement required
  - Offer to purchase required
  - A full internal appraisal required

ALTERNATIVES – Spousal buy-out

Reality of Spousal Support from a lender's perspective:

1) Damned if you pay… lenders don't consider the real after tax payment in your own debt servicing.

2) Damned is you receive (especially large payments) as lenders view it as unstable and many see it a ridiculous if it is large amount

#1: Fully Income Qualified Mortgage

- If your client has good credit and steady income, they will be eligible for the lower interest rates and the better mortgage products and terms
- Divorce, however, can pose a challenge for income verification
  - Some lenders deduct spousal and child support payments payable from income while others treat those payments as liabilities
  - Similarly, no across-the-board standard to how lenders treat support payments to be received

KEY CR TIP

Seek out a Mortgage Broker who can guide your client through this process and understands the intricacies of financing during separation and divorce

#2: Net-Worth Based Mortgage

- Divorce may lead to valuable assets being transferred, even if your client has a low cash-low
- If your client has assets, and good credit but simply can't qualify on income, due to the financial shake-up of divorce, or otherwise, this type of financing may be a good fit
- Lenders may loan money to this type of borrower if they feel confident they can make the payments
- Again, the rules and guidelines around this type of mortgage is complicated, so seek an experienced mortgage broker who can help

#3 Private or unconventional lenders

- What if your client is determined to stay in their home but can't qualify for a traditional mortgage based on their income OR net worth?
- They can turn to a non-traditional lender
- The downside for easier qualification is higher interest rates, tighter terms and a lower loan-to-value ratio
- Still, this can be a great short-term solution for your client
- A mortgage broker can help you both find and assess the right lender for your client – AVOID private when you can or use short term

Budgeting

- After a divorce, your client's entire financial picture has likely changed and they require an fresh budget
- Since a mortgage is often the single largest line-item in most people's budgets, planning is essential
- Financial Statement of Claim can be used against you

Budgeting

- Once your client finds the mortgage option right for them, they will be able to get an idea of monthly payments and how much equity can be freed up

- This can help with your asset allocation and budgeting scenarios to arrive at a fair, equitable and sustainable solution for your client

Action Steps to Succeed

1) Budgeting is likely the single most important issue – whether wealthy or not. Its also the most important part of a financial plan – start here.
2) Determine the financial and social benefit of keeping the matrimonial home – especially when there are kids involved.
3) Realize that most bankers and mortgage lenders don't understand the intricacies of divorce so you need someone who does (or coach them based on need)
4) Like the legal world – lending world is document intensive. Good records pay off.

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