

## ALERTS

## FinCEN Renews GTOs Targeting Real Estate Transactions

**March 1, 2017**

On Feb. 23, 2017, the Financial Crimes Enforcement Network (“FinCEN”), a bureau of the U.S. Department of the Treasury, announced the renewal of various temporary Geographic Targeting Orders (“GTOs”) involving certain real estate transactions, an existing initiative to address concerns about money laundering in the real estate market.[1] The renewed GTOs require U.S. title insurance companies to report to FinCEN within 30 days of closing specific information about “all cash” high-end residential real estate transactions in six major metropolitan areas, including the following information: (1) the identity of the beneficial owner of the legal entity; (2) if the purchaser is a limited liability company, then the names, addresses and taxpayer identification numbers of its members; and (3) the identity of the individual primarily responsible for representing the purchaser in the transaction. Reporting is to be made via Form 8300 on the Bank Secrecy Act E-Filing System.[2]

FinCEN initially issued similar GTOs involving real estate transactions in January 2016. Those GTOs were scheduled to be in effect only from March 1 through Aug. 27, 2016, and covered two geographic areas: Manhattan and Miami-Dade County. At that time, the chief of the FBI’s financial crimes section, Patrick Fallon, stated, “We fully intend to encourage expansion of [the GTOs], so, not only to different geographic areas but as far as the time frame as well.”[3]

The government delivered on this promise in July 2016, at which time FinCEN announced that it was expanding the reach of its initial GTOs, noting that the initial GTOs had helped law enforcement “identify possible

illicit activity” and were “informing future regulatory approaches.”[4] The expanded GTOs, which were effective for 180 days beginning on Aug. 28, 2016, covered six U.S. geographic areas: (1) all boroughs of New York City; (2) Miami-Dade County and the two counties immediately north (Broward and Palm Beach); (3) Los Angeles County; (4) three counties comprising part of the San Francisco area (San Francisco, San Mateo and Santa Clara counties); (5) San Diego County; and (6) the county that includes San Antonio, Texas (Bexar County). Under the GTOs effective beginning Aug. 28, 2016, the monetary thresholds that prompt the reporting obligation vary for each jurisdiction: \$3 million for residential real property in Manhattan and \$1.5 million for the remaining New York City boroughs; \$1 million for the three Florida counties subject to the GTOs; \$2 million for the five California counties subject to the GTOs; and \$500,000 for Bexar County, Texas.[5]

FinCEN’s action on Feb. 23 renews these expanded GTOs for 180 days, or through Aug. 22, 2017. In its Press Release renewing the GTOs, FinCEN stated that it has “found that about 30 percent of the transactions covered by the GTOs involve a beneficial owner or purchaser representative that is also the subject of a previous suspicious activity report,” and that this fact corroborates its “concerns about the use of shell companies to buy luxury real estate in ‘all-cash’ transactions.”[6] FinCEN has also suggested that it may take additional steps in the future to address money laundering in the real estate sector and that the information being provided pursuant to the GTOs is helping to inform those efforts.[7]

*Authored by Jeffrey A. Lenobel, Seetha Ramachandran, Gary Stein, Betty Santangelo, Jennifer M. Opheim and Mari S. Dopp.*

If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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[1] For FinCEN’s summary of the GTO renewal, see FinCEN’s Press Release, “FinCEN Renews Real Estate ‘Geographic Targeting Orders’ to Identify High-End Cash Buyers in Six Major Metropolitan Areas” (Feb. 23, 2017). A sample GTO is available on FinCEN’s website here.

[2] For background on GTOs, see “New Anti-Money Laundering Regulatory Initiative Targets Real Estate Industry,” *Westlaw Journal White-Collar Crime*, Vol. 30, Issue 6 (March 2016).

[3] “U.S. Will Track Secret Buyers of Luxury Real Estate,” *The New York Times* (Jan. 13, 2016).

[4] See FinCEN's Press Release, “FinCEN Expands Reach of Real Estate ‘Geographic Targeting Orders’ Beyond Manhattan and Miami” (July 27, 2017).

[5] An electronic copy of FinCEN's Geographic Targeting Order Covering Title Insurance Companies (Major Metropolitan Areas and Monetary Thresholds) is available here.

[6] See FinCEN's Press Release, “FinCEN Renews Real Estate ‘Geographic Targeting Orders’ to Identify High-End Cash Buyers in Six Major Metropolitan Areas” (Feb. 23, 2017).

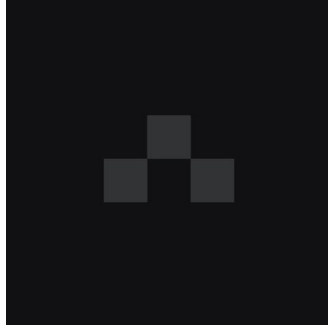
[7] *Id.*

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