

FinCEN=

**Financial Crimes Enforcement Network,
a bureau of the
U.S. Treasury Department**

**Use of shell companies
decreases transparency.**



GEOGRAPHIC TARGETING ORDER

The Director of the Financial Crimes Enforcement Network (“FinCEN”), U.S. Department of the Treasury, hereby issues a Geographic Targeting Order (“Order”) requiring *title insurance company* to collect and report information about the persons involved in certain residential real estate transactions, as further described in this Order.

I. AUTHORITY

The Director of FinCEN may issue an order that imposes certain additional recordkeeping and reporting requirements on one or more domestic financial institutions or nonfinancial trades or businesses in a geographic area. See 31 U.S.C. § 5326(a); 31 CFR § 1010.370; and Treasury Order 180-01. Pursuant to this authority, the Director of FinCEN hereby finds that reasonable grounds exist for concluding that the additional recordkeeping and reporting requirements

II. ADDITIONAL RECORDKEEPING AND REPORTING REQUIREMENTS

A. Business and Transactions Covered by this Order

1. For purposes of this Order, the “Covered Business” means *title insurance company* and any of its subsidiaries and agents.

<https://www.fincen.gov/sites/default/files/shared/Real%20Estate%20GTO%20Order%20-%2008.22.17%20Final%20for%20execution%20-%20Generic.pdf>

2. For purposes of this Order, a “Covered Transaction” means a transaction in which:
 - i. A Legal Entity (as defined in Section III.A of this Order);
 - ii. Purchases residential real property:
 1. For a total purchase price of \$500,000 or more in the Texas county of Bexar;
 2. For a total purchase price of \$1,000,000 or more in the Florida county of Miami-Dade, Broward, or Palm Beach;
 3. For a total purchase price of \$1,500,000 or more in the Borough of Brooklyn, Queens, Bronx, or Staten Island in New York City, New York;
 4. For a total purchase price of \$2,000,000 or more in the California county of San Diego, Los Angeles, San Francisco, San Mateo, or Santa Clara;
 5. For a total purchase price of \$3,000,000 or more in the Borough of Manhattan in New York City, New York; or
 6. For a total purchase price of \$3,000,000 or more in the City and County of Honolulu in Hawaii; and

- ✓ Under current U.S. law, real estate professionals do not have any affirmative anti-money laundering obligations.
- ✓ The GTOs did not impose any new obligations on real estate professionals.

FIN-2017-A003

August 22, 2017

Advisory to Financial Institutions and Real Estate Firms and Professionals

Drug traffickers, corrupt officials, money launderers, and other criminals seek to exploit real estate transactions to hide their illicit profits, conceal their identities, and launder funds.

This Advisory should be shared with:

- *Real Estate Professionals*
- *Organization Executives*
- *Comptroller/Treasury/
Accounting Departments*

The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to provide financial institutions and the real estate industry with information on money laundering risks associated with certain real estate transactions. As highlighted by recent Geographic Targeting Orders (GTOs) issued by FinCEN, real estate transactions involving luxury property purchased through shell companies—particularly when conducted with cash and no financing—can be an attractive avenue for criminals to launder

RED FLAGS:

- Transactions that lack economic sense or have no apparent lawful business purpose;
- Buyers seeking to purchase a property without regard for its condition, location, assessed value or sales price;
- Transactions that appear to be far beyond a purchaser's wealth;
- Funding that comes from an unknown source, or funding that is from or goes to an unrelated individual or company;
- Purchasers attempting to purchase property under the name of an unrelated individual or company; or
- Purchasers asking for records to be altered.



BSA E-FILING SYSTEM

FINANCIAL CRIMES ENFORCEMENT NETWORK

BSA Home

Using BSA E-Filing

Take a Tour

File an Individual FBAR

Become a BSA E-Filer

Frequently Asked Questions

Help

Site Map

E-Filing System Login

Welcome to the BSA E-Filing System

The BSA E-Filing System supports electronic filing of Bank Secrecy Act (BSA) forms (either individually or in batches) through a FinCEN secure network. BSA E-Filing provides a faster, more convenient, more secure, and more cost-effective method for submitting BSA forms. [Additional benefits](#) are listed under [Using BSA E-Filing](#).



How does BSA E-Filing work?

The BSA E-Filing System is hosted on a secure website accessible on the Internet. Organizations that file BSA forms with FinCEN can securely access the system after they apply for and receive a user ID and password from FinCEN.



Report Foreign Bank and Financial Accounts (FBAR)



Become a BSA E-Filer



Take a Quick Tour

Hot Topics

- ▶ [FinCEN FBAR Release Update](#)
- ▶ [FinCEN CTR XML User Guide Update/Release of Updated CTR](#)
- ▶ [FinCEN Announces Update to the FBAR](#)
- ▶ [CTR Technical Webinar Presentation](#)
- ▶ [FinCEN Announces Update to the Currency Transaction Report \(CTR\)](#)

User Quick Links

- ▶ [RMSB Website](#)

FBAR Filers

- ▶ [File an Individual FBAR](#)
- ▶ [Line Item Instructions For Completing the FBAR](#)
- ▶ [FinCEN Form 114\(a\)](#)
- ▶ [FBAR FAQ's](#)

Supervisory Users

- ▶ [Getting Started with BSA E-Filing](#)
- ▶ [Submitting the Supervisory User Application Form](#)
- ▶ [Obtaining Authorization as Supervisory User](#)

General Users

- ▶ [Downloading the Adobe Reader](#)

Batch Filers

- ▶ [FinCEN FBAR \(FBAR\) XML Filing](#)

<https://bsaefiling.fincen.treas.gov/main.html>



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While FinCEN currently has exempted them from these broader obligations, persons involved in real estate closings and settlements do participate in efforts to safeguard the U.S. real estate industry and financial system from money laundering and terrorism financing through their existing AML/CFT requirements.¹⁸ They, like all U.S. persons engaged in trade and business, must file reports on transactions in currency and certain monetary instruments involving more than \$10,000 (commonly referred to as “Form 8300”).¹⁹ They also may be required to annually report on foreign bank and financial accounts they own or control, report the transportation of currency across the U.S. border, and keep associated records, as well as respond to FinCEN-issued GTOs.²⁰ In addition, as other financial institutions under the BSA, persons involved in real estate closings and settlements—which may include real estate brokers, escrow agents, title

issued GTOs.²⁰ In addition, as other financial institutions under the BSA, persons involved in real estate closings and settlements—which may include real estate brokers, escrow agents, title insurers, and other real estate professionals—can voluntarily report suspicious activity and such disclosures would be protected from liability under the BSA’s safe harbor.

Mandatory Reporting of Suspicious Activity

A covered financial institution is required to file a SAR if it knows, suspects, or has reason to suspect a transaction conducted or attempted by, at, or through the financial institution involves funds derived from: illegal activity, attempts to disguise funds derived from illegal activity, is designed to evade regulations promulgated under the BSA, lacks a business or apparent lawful purpose, or involves the use of the financial institution to facilitate criminal activity.²²

Voluntary Reporting of Suspicious Activity

SARs play an important role in assisting law enforcement to combat crime as they identify possible illicit activity and criminals. FinCEN encourages persons involved in real estate closings and settlements—which may include real estate brokers, escrow agents, title insurers, and other real estate professionals—to voluntarily file a SAR to report any suspicious transactions.²³ These persons are well-positioned to identify potentially illicit activity as they have access to a more complete view and understanding of the real estate transaction and of

Anti-Money Laundering Guidelines for Real Estate Professionals

OVERVIEW

The crime of money laundering continues to be a growing area of concern in the United States. Therefore, law enforcement agencies and the financial sector devote considerable time and resources to combatting these illegal financial activities. However, many non-financial businesses and professions are also vulnerable to potential money laundering schemes. Real estate professionals are a category of the non-financial business sector that may encounter persons engaging in money laundering activities. The purpose of this fact sheet and suggested voluntary guidelines is to increase real estate professionals' awareness, knowledge, and understanding of the potential money laundering risks surrounding real estate and enable them to identify practical measures to mitigate the risks.

What Is Money Laundering?

Money laundering is the process criminals use to disguise the illegal origin of their funds. Certain criminal activities generate substantial proceeds. Legitimizing, or "laundering" this money through the financial system, is a critical component for criminals to hide their activities and not draw attention to their illegally derived proceeds.

The actual process of money laundering is a three step process that is initiated by introducing the illegal proceeds into the financial system, e.g., breaking up large amounts into small deposits or by purchasing financial instruments, such as money orders, which is referred to as placement. This is typically followed by distancing the illegal proceeds from the source of the funds through layers of financial transactions, referred to as layering, and finally by returning the illegally derived proceeds to the criminal from what appears to be a legitimate source, known as integration. A real estate transaction can be used in any

AML RESOURCES

NAR RESOURCES:

- Money Laundering and Terrorism Financing Home Page
<http://bit.ly/2Ab8PkG>
- Anti Money Laundering Guidelines for Real Estate Professionals:
<http://bit.ly/2BrI3Cw>
- Window to the Law Video: New Effort to Combat Money Laundering
<http://bit.ly/2zt2LAC>
- Video: Money Laundering What to Look For: <http://bit.ly/2vGbIE7>
- The Global View Blog, “Tips for Spotting Global Money Laundering Schemes”: <http://bit.ly/2AcEIc3>

OTHER RESOURCES:

- FinCEN “Advisory to Financial Institutions and Real Estate Firms and Professionals”, August 22, 2017: <http://bit.ly/2n92hxx>
- FinCEN GTO, issued August 22, 2017: <http://bit.ly/2wC1wjV>
- FATF (2016), Anti-money laundering and counter-terrorist financing measures - United States, Fourth Round Mutual Evaluation Report, FATF, Paris: <http://bit.ly/2gKd5Oy>