

Client Alert

August 2016

FinCEN Extends and Expands Anti-Money Laundering (AML) Reporting Requirements for Cash Purchases of Real Estate in Key Metropolitan Markets

On July 27, 2016, the Financial Crimes Enforcement Network (FinCEN) announced an expansion of its “Geographic Targeting Order” (GTO) program first introduced on [January 13, 2016](#), as part of an ongoing effort to identify money laundering risks in the national real estate market. The new GTOs will extend those already in effect for Manhattan and Miami, and expand the program to include high-end markets in California and Texas, as well as other parts of New York and Florida. All new GTOs take effect on August 28, 2016, run through February 23, 2017, and require title insurance companies to identify the natural persons behind shell companies engaged in all-cash purchases of high-end residential real estate.

The expansion of the GTOs is indicative of FinCEN’s increasing focus on the real estate industry as a vehicle for individuals to hide their assets and identities using opaque business structures to purchase real estate, often in cash and without financing from a traditional lender. The lack of financing allows would-be money launderers to circumvent strict customer identification and suspicious activity reporting requirements imposed on financial institutions covered under the Bank Secrecy Act (BSA). In its press release announcing the latest GTOs, FinCEN stated that a “significant portion” of the reported transactions under the initial orders applicable to Manhattan and Miami revealed beneficial owners behind shell company purchasers with possible ties to criminal activity.

It is unknown whether the information collected by FinCEN has or will result in referrals to law enforcement for possible money laundering investigations. However, in light of the GTOs, real estate companies should take note of the data collection and consider appropriate steps to scrutinize cash buyers with respect to beneficial ownership and source of funds. The definition of a “financial institution” under the BSA is consistently expanding. Real estate companies should evaluate existing compliance and consider whether additional, risk-based measures are warranted given the continued focus by FinCEN on the industry.

Our new video series “Things You Need to Know in 5 Minutes or Less” recently highlighted this important issue. You can view the video [here](#).

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