

GEOGRAPHIC TARGETING ORDERS (GTOS)



BACKGROUND

The Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Treasury Department, issued the first GTO in January 2016.



The GTOs reflect FinCEN's increasing interest in understanding how real estate is used as a vehicle for money laundering. Data collected through the GTOs are used to stop money laundering in real estate.



The GTOs require U.S. title insurance companies to identify the individuals behind legal entities used in all-cash purchases of residential real estate performed without a bank loan or similar form of external financing.



The GTOs have been renewed and expanded several times, with the latest renewal being issued in May 2021.



The beneficial ownership identification requirement provides key to information in furtherance of anti-money laundering (AML) risk assessment and enforcement.



FinCEN reports that at least 30% of transactions covered by the GTOs involve a beneficial owner or purchaser previously reported as suspicious.

The GTOs currently apply only to Covered Businesses: defined as title insurance companies and their subsidiaries.

A COVERED TRANSACTION IS DEFINED AS:



A cash transaction (including checks, money order in any form, funds transfer or virtual currency),



Without a bank loan or similar form of external financing,



Of residential real property,

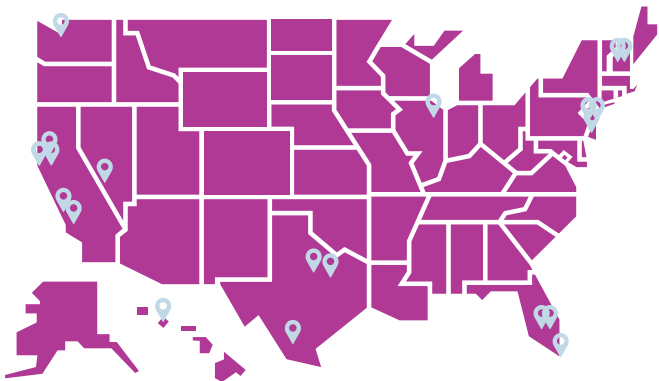


Purchased by a legal entity: including a corporation, limited liability company, partnership or other similar business entity, formed under US law or in a foreign jurisdiction,

≥ \$300K

With a purchase price of \$300,000 or more.

LOCATIONS COVERED BY THE GTOS



CALIFORNIA: San Diego, Los Angeles, San Francisco, San Mateo & Santa Clara Counties

FLORIDA: Miami-Dade, Broward and Palm Beach Counties

HAWAII: City and County of Honolulu

ILLINOIS: Cook County

MASSACHUSETTS: Suffolk and Middlesex Counties

NEVADA: Clark County

NEW YORK: Boroughs of Brooklyn, Queens, Bronx, Staten Island and Manhattan

TEXAS: Bexar, Tarrant and Dallas counties

WASHINGTON: King County

GTO REQUIREMENTS

Title insurance companies must file a Currency Transaction Report for each Covered Transaction with the following information:



- » the name of the legal entity making the purchase
- » the individual responsible for representing the legal entity
- » the beneficial owner(s)* of the legal entity, among other detailed information about the parties involved in the all-cash transaction
- » a **beneficial owner: is an individual who, directly or indirectly, owns a 25% or greater interest in the legal entity.**

Real estate professionals do not have any obligations under the current GTOs, but are encouraged to cooperate with a title insurance company's request for information in order to comply with the GTOs. GTO compliance should not affect the real estate sales transaction or delay closing, as title companies are required to report GTO covered transactions to FinCEN within 30 days of the closing.



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RISK FACTORS AND RISK MITIGATION



GEOGRAPHIC RISKS

- 1. **The customer or funds are located in a jurisdiction that has a weak AML regime, supports or funds terrorism, or has a high degree of political corruption**
- 2. **General knowledge of the jurisdictions that are covered under the GTOs.**



CUSTOMER RISKS

- 1. **There is a large unexplained geographic distance between the buyer and the property.**
- 2. **Unusual involvement of third parties**
- 3. **Titling a residential property in the name of third party, obscuring identity of owner: ex) friend, relative, business associate, lawyer.**
- 4. **High-ranking foreign political officials or their family members**



TRANSACTION RISKS

- 1. **Under or over-valued properties:** Is the owner selling the property for significantly less than the purchase price? Does the seller seem disinterested in obtaining a better price?
- 2. **Use of large amounts of cash:** Buyer brings actual cash to the closing. The purchase of a property without a mortgage, where it does not match the characteristics of the buyer.
- 3. **Property purchases inconsistent with the individual's occupation or income:** Is the property being purchased significantly beyond the purchaser's means?
- 4. **Immediate resale of the property:** Especially if the sale entails a significant increase or decrease in the price compared to the prior purchase price, without a reasonable explanation.
- 5. **Speed of transaction** (without reasonable explanation).
- 6. **Unusual source of funding:** When purchaser has third-party funds not from a parent, sibling, etc., use of multiple funds, when property is being held in a different name than the business that sourced funds.
- 7. **Purchase made without viewing property.**
- 8. **Suspicious behavior** that does not make commercial sense based on the agent's familiarity with the real estate industry and the normal course of business.
- 9. **Transactions in cryptocurrency** where house is not listed in cryptocurrency.
- 10. **Transactions involving persons in the marijuana business.**

KNOW YOUR CUSTOMER | CUSTOMER DUE DILIGENCE

Knowing your customer's true identity and planned use for a property helps agents detect red flags that may mitigate AML risks including those involving the use of shell companies. If any red flags are present, the agent should:


- 1. **Obtain additional information:** driver's license, passport.
- 2. **Beneficial ownership information:** If a legal entity (corporation or LLC) is involved, take additional measures to identify who controls the entity.
- 3. **Obtain other appropriate information** based on the agent's knowledge to understand the customer's circumstances.
- 4. **Notify senior management** of the increased red flags indicating an increased transactional risk, and closely monitor the transaction.




REPORTING SUSPICIOUS ACTIVITY | SARS FILING

Real estate agents can report suspicious activity to local law enforcement, the FBI, or through FinCEN's suspicious activity report (SAR).

SARs are designed for financial institutions to report potential money laundering activity. While real estate professionals are not required to file a SAR, they are an available tool. FinCEN's guidance suggests real estate professionals would be protected from civil liability in filing a voluntary SAR, but real estate agents should thoroughly evaluate circumstances of the suspicious activity and consider consulting an attorney prior to filing.



The electronic SAR form is available at: <http://bsaefiling.fincen.treas.gov/main.html>



For further information or assistance regarding how to file a SAR, call FinCEN's Regulatory Helpline (800) 949.2732.

MUST FILE FORM 8300

Form 8300 must be filed by any trade or business (including real estate) that receives in excess of \$10,000 in cash in a single transaction or two or more related transactions.



Form 8300 can be found at: <http://www.irs.gov/pub/irs-pdf/f8300.pdf>

RECEIPT OF CASH; FORM 8300

Cash includes cash equivalents such as cashier's checks, bank drafts, and money orders. If an agent receives a cashier's check or other cash equivalent of less than \$10,000, but which in combination with other cash or cash equivalents totals more than \$10,000 the agent, must file form a 8300.

EXCEPTIONS TO FORM 8300

If the cash equivalent is for more than \$10,000, the transaction will be reported by the issuing bank, and the agent does not need to also file a Form 8300.