



FINCEN & HOW IT IMPACTS YOUR CLIENTS

Since January 2016, the Financial Crimes Enforcement Network (FinCEN), required title companies to collect and report beneficial ownership information on certain real estate transactions. These Geographic Targeting Orders (GTO) apply to all title insurers, their subsidiaries, and agents of “Covered Business”. Significant penalties apply for failure to report a transaction described below.

WHAT IS FINCEN? Established in 1990, FinCEN is a bureau of the U.S. Department of the Treasury. Its mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

WHAT IS THE BANK SECRECY ACT? The Bank Secrecy Act (BSA) is the primary U.S. anti-money laundering (AML) law and tool for detecting, deterring, and disrupting terrorist financing networks.

WHAT IS MONEY LAUNDERING? Money laundering is the process of disguising financial assets produced through illegal activity.

On April 21, 2023 the US Department of Treasury’s Financial Crimes Enforcement Network (FinCEN) issued a Geographic Targeting Order (GTO) for these Colorado counties: Adams, Arapahoe, Clear Creek, Denver, Douglas, **Eagle**, Elbert, El Paso, Fremont, Jefferson, **Mesa**, **Pitkin**, Pueblo and **Summit**. There have been GTOs issued for other parts of the country for several years. A GTO is not intended to prevent real estate closings from taking place. It is meant to allow the US Department of the Treasury to collect information on these types of transactions after a closing.

What does this mean for your Clients? If it is determined that a transaction falls under the FinCEN reporting requirements, a GTO Information Collection Form must be sent to your client for them to complete and send back to us with the necessary identification documents as a requirement of closing. An example of the GTO Information Collection Form is available upon request. Below are the criteria for determining if the transaction needs to be reported:

- Residential Real Property is being purchased by a Legal Entity. “Legal Entity” means a corporation, limited liability company, partnership, or other similar business entity whether formed under State, US, or Foreign jurisdiction. This includes vacant land.
- Purchase price is \$300,000.00 or more.
- The purchase is made without a bank loan or similar form of external financing by a financial institution that is obligated to maintain an anti-money laundering program and report suspicious transactions under FinCEN. *Therefore transactions involving private equity loans, private money loans, and hard money would be required to be reported under the order.
- Purchase is made by using currency or a cashier’s check, a certified check, a traveler’s check, a personal check, a business check, a money order in any form, a funds transfer, or virtual currency. We must collect copies of the identification of the purchasing entity’s beneficial owners who directly or indirectly own 25% or more of the equity interest of the entity. (i.e. Driver’s license, passport, etc.) in conjunction with receiving the GTO Information Collection Form.

Within 72 hours of closing, we will securely send the GTO Information Collection Form as well as copies of the identification to our Compliance Team, and they will report the transaction to the US Department of the Treasury and to the applicable Underwriter issuing title insurance policies for the transaction.

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