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## FinCEN Expands Residential Real Estate GTOs to Include Honolulu and to Require the Reporting of Real Estate Transactions Funded by Wire Transfer

On August 22, 2017, the Financial Crimes Enforcement Network of the U.S. Department of the Treasury (FinCEN) issued revised Geographic Targeting Orders (the New GTOs) that require U.S. title insurance companies, their subsidiaries and agents (collectively, the Title Insurance Companies) to identify the natural persons behind shell companies that pay “all cash” for high-end residential real estate in seven metropolitan areas. The New GTOs follow the geographic targeting orders that FinCEN issued in July 2016 and February 2017 (collectively, the Prior GTOs).

The New GTOs now **include the City and County of Honolulu**, Hawaii and **purchases made, in whole or in part, using a funds transfer, including a wire transfer**. The inclusion in the New GTOs of “funds transfers” as a method of payment that is subject to the FinCEN residential real estate transaction reporting regime is a significant expansion from the Prior GTOs. All-cash, wire transfer-funded transactions were not subject to reporting under the Prior GTOs but will now be subject to reporting under the New GTOs.

According to FinCEN’s findings, issued together with the New GTOs, about 30 percent of the transactions reported pursuant to the Prior GTOs involved a beneficial owner or purchaser representative who was the subject of a previous suspicious activity report. FinCEN believes that these findings corroborate its concerns about shell companies being used to buy luxury real estate in all-cash transactions.

### **Reports Required to be Filed Pursuant to the New GTOs:**

Title Insurance Companies must report “Covered Transactions” (as defined below) by filing FinCEN Form 8300 within 30 days of the closing of the Covered Transaction. For purposes of the New GTO, a “Covered Transaction” is a transaction in which:

- (i) a legal entity (*i.e.*, a corporation, limited liability company, partnership or other similar business entity, whether formed under the laws of a state or of the United States or a foreign jurisdiction);
- (ii) purchases residential real property for a total purchase price of:
  - a. \$500,000 or more in Bexar County, Texas;
  - b. \$1 million or more in Miami-Dade, Broward, or Palm Beach Counties;
  - c. \$1.5 million or more in the Boroughs of Brooklyn, Queens, the Bronx, or Staten Island;
  - d. \$2 million or more in San Francisco, Los Angeles, San Diego, San Mateo, or Santa Clara Counties;
  - e. \$3 million or more in the Manhattan Borough; or
  - f. \$3 million or more in the City and County of Honolulu, Hawaii; and
- (iii) Such purchase is made without a bank loan or other similar form of external financing; and
- (iv) Such purchase is made, in whole or in part, 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, or a funds transfer (including a wire transfer).

### **Effective Period:**

The New GTOs are effective beginning Sept. 22, 2017, and expire on March 20, 2018. As with the Prior GTOs, we fully expect the expiry date of the New GTOs to be extended.

This *GT Alert* was prepared by **Robert J. Ivanhoe**, **Carl A. Fornaris**, **Shannon Bothwell**, **Gary A. Saul**, **Jared E. Dwyer**, and **Marina Olman-Pal**. Questions about this information can be directed to:

- > [Robert J. Ivanhoe](mailto:ivanhoer@gtlaw.com) | +1 212.801.9333 | [ivanhoer@gtlaw.com](mailto:ivanhoer@gtlaw.com)
- > [Carl A. Fornaris](mailto:fornarisc@gtlaw.com) | +1 305.579.0626 | [fornarisc@gtlaw.com](mailto:fornarisc@gtlaw.com)
- > [Shannon Bothwell](mailto:bothwells@gtlaw.com) | +1 305.579.0544 | [bothwells@gtlaw.com](mailto:bothwells@gtlaw.com)
- > [Gary A. Saul](mailto:saulg@gtlaw.com) | +1 305.579.0846 | [saulg@gtlaw.com](mailto:saulg@gtlaw.com)
- > [Jared E. Dwyer](mailto:dwyerje@gtlaw.com) | +1 305.579.0564 | [dwyerje@gtlaw.com](mailto:dwyerje@gtlaw.com)
- > [Marina Olman-Pal](mailto:olmanm@gtlaw.com) | +1 305.579.0779 | [olmanm@gtlaw.com](mailto:olmanm@gtlaw.com)
- > Or your [Greenberg Traurig](#) attorney

<b>Albany</b> +1 518.689.1400	<b>Delaware</b> +1 302.661.7000	<b>New York</b> +1 212.801.9200	<b>Silicon Valley</b> +1 650.328.8500
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