



Agency Bulletin: AGTX/FL-2016-005

Date: August 18, 2016

To: All Texas and Florida Agents

From: Chris Phillips, CEO

RE: **Bexar County, Texas and Miami-Dade, Broward, & Palm Beach Counties in Florida** properties subject to US Department of the Treasury Financial Crimes Enforcement Network ("FinCEN") Geographic Targeting Order ("GTO") **beginning August 28, 2016**

Ladies and Gentlemen:

The Director of the ("FinCEN") of the U.S. Department of the Treasury, issued a ("GTO") on January 13, 2016 and again on July 22, 2016, requiring offices and agents of title insurance underwriters in the United States to collect and report information about persons involved in certain purchase transactions of residential real property. Information and tools needed to properly comply with the FinCEN reporting requirements are contained herein, and a copy of the GTO is also attached. We strongly urge the owners and managers of our FNTI Agents to inform the title closers and title examiners as soon as possible of this new regulation; additionally, educating your customers will contribute substantially to fewer closings delayed due to the additional burdens placed upon the closing process because of this new regulation.

I. When does the GTO begin?

The beginning date of the information to be collected and reported is for those transactions closing on **August 28, 2016**, and will continue through February 23, 2017, unless otherwise extended by the Director of FinCEN. All covered transactions closing between these dates must be reported.

II. What property transactions are covered by the GTO and for which the Agent is responsible to obtain information and report?

1. Residential real property designed principally for occupancy of one to four families (including individual units of condominiums and cooperatives) located in:
 - Bexar County, Texas with a sales price of \$500,000 or more
 - Miami-Dade, Broward, or Palm Beach Counties in Florida with a sales price of \$1,000,000 or more
2. The purchaser is a legal entity (a corporation, limited liability company, partnership or other similar business entity) whether formed in the USA or a foreign country
3. The purchase is made without a bank or financial institutional loan
4. Any part of the purchase funds are received in the form of cash, personal check, business check, money order, traveler's check, certified check, cashier's check, bank check, official check, or treasurer's check. Wired funds are excluded.

(Caveat: Even if the buyer's funds to accomplish the closing and funding are sent by wire transfer but the earnest money/down payment/deposit was in the form of cash/check/money order, the transaction is subject to the reporting requirements of the GTO.)

5. Transactions in Miami-Dade County, Florida have been subject to a prior GTO, but please take notice that this most recent GTO now makes a personal or business check a trigger for reporting the transaction to FinCEN.

III. What to do now (before August 28, 2016)?

For property in the affected counties, beginning now and continuing for the duration of the GTO, all title reports and commitments for title insurance to insure residential property when the purchase price is unknown or when the purchase price meets the thresholds stated in the GTO (and also as reflected in section II above) should include a requirement in Schedule C (Texas) or in Schedule B, Part II (Florida) similar to the following:

“A Geographic Targeting Order issued by the Financial Crimes Enforcement Network of the US Department of the Treasury mandates additional information may be required for certain transactions. This transaction may not and will not be closed and insured until any requested information necessary to complete IRS/FinCEN Form 8300 is provided.”

IV. What information and documentation has to be collected and reported?

The GTO requires collecting and reporting identifying information about the following:

- the Purchaser: the organizational documents creating the entity and any current documentation to establish the equity ownership of the entity, the taxpayer ID number, any DBA (doing business as) name, and the address for the entity, along with the Country (if not the USA)
- the individual primarily responsible for representing the Purchaser: the taxpayer ID number, the occupation, and a copy of the driver’s license, passport, or other similar identifying document for the person or persons authorized by the entity to enter legally binding contracts on behalf of the entity
- a copy of the driver’s license, passport, or other similar identifying document for each “Beneficial Owner(s)” of the Purchaser in a transaction covered by the GTO. The “Beneficial Owner is each individual who, directly or indirectly, owns 25% or more of the equity interests of the Purchaser
- if the purchasing entity is a corporation, partnership or other similar business entity, and is owned by another entity, obtain identifying documentation for each INDIVIDUAL beneficial owner of the parent entity
- if the purchasing entity is a limited liability company, obtain identifying documentation for EVERY LLC member

NOTE: Only the Form T-1 may be issued on residential property in Texas when the purchaser is an entity. (Reference Procedural Rule P-38)

V. Who, How, When, and Where to report?

The agent issuing the policy is responsible for submitting the completed FinCEN Form 8300 which can be located here: https://www.fincen.gov/forms/files/fin8300_cashover10k.pdf. **Complete the form based upon the information required in the GTO, do not complete this form using the instructions found on pages 3 thru 5 of the form obtained from the website.** If the agent closing the transaction is not issuing the policy, the closing agent should exercise caution and due diligence for obtaining the information and providing to the policy issuing agent for reporting.

The Form 8300 must be completed according to the terms/provisions of the GTO, and must be E-filed thru the Bank Secrecy Act E-filing system , <http://bsaefiling.fincen.treas.gov/main.html>. **Do not send the completed Form 8300 to the Internal Revenue Service.** We recommend that each agent issuing policies on transactions covered by the GTO familiarize yourself with the website and follow the following steps:

- i) review “Getting Started”
- ii) complete the “Supervisory User Application Form”
- iii) assign a supervisory user to represent your agency
- iv) obtain a digital certificate
- v) register on the system

Upon determination that a transaction is subject to the GTO, obtain the information set forth in section IV above and complete the FinCEN Form 8300, which is a 2 page form . The following explanations may be helpful.

Part I on Page 1 shall contain information about the identity of the individual(s) primarily responsible for representing the Purchase. Retain a copy of the identifying documentation (driver’s license, passport, or other similar documentation), remembering to complete the type document (example: passport), number (example: T 43758316), and the issuing agency (example: insert Canada if a Canadian passport is the identifying documentation obtained) for Field 14. Part I of the Form 8300 appears as follows:

Part I Identity of Individual From Whom the Cash Was Received					
2 If more than one individual is involved, check here and see instructions <input type="checkbox"/>					
3 Last name		4 First name		5 M.I.	6 Taxpayer identification number
7 Address (number, street, and apt. or suite no.)				8 Date of birth (see instructions) M M D D Y Y Y Y	
9 City		10 State	11 ZIP code	12 Country (if not U.S.)	
14 Identifying document (ID)		a Describe ID c Number			b Issued by

Part II contains information about the identity of the Purchaser. Always **select the box for Field 15** so that reporting of multiple parties under Part II of the form may be accomplished. The full name of the entity purchasing the property, any DBA information, taxpayer identification number, address, etc. are completed in Fields 16 thru 26. Part II of Page 1 of the Form 8300 appears as follows:

Part II Person on Whose Behalf This Transaction Was Conducted					
15 If this transaction was conducted on behalf of more than one person, check here and see instructions <input type="checkbox"/>					
16 Individual's last name or organization's name		17 First name		18 M.I.	19 Taxpayer identification number
20 Doing business as (DBA) name (see instructions)				Employer identification number	
21 Address (number, street, and apt. or suite no.)				22 Occupation, profession, or business	
23 City		24 State	25 ZIP code	26 Country (if not U.S.)	
27 Alien identification (ID)		a Describe ID c Number			b Issued by

Part II continues on Page 2 which is completed using the information obtained from each "Beneficial Owner" of the entity. Recall that a "Beneficial Owner" is defined as each individual (don't forget the individual(s) that may also be one(s) who is/are primarily responsible for representing the purchaser primary responsibility.

- For limited liability companies as purchaser or a "Beneficial Owner", all members must be reported. Notice that Part II on Page 2 has space for the reporting for only 2 members, If there are more than 2 members, use lines in the "Comments" section.
- For corporations, partnerships, and/or other similar business entity, insert information for two of the beneficial owners, and use lines in the "Comments" section for the remainder of the beneficial owners.
- The first line of the "Comments" section of Part II on page 2 must contain the following notation "REGTO". The remaining lines may be used to supply remaining LLC members or any remaining "Beneficial Owners"

Part II from Page 2 appears as follows:

Part II Continued—Complete if box 15 on page 1 is checked

16 Individual's last name or organization's name		17 First name		18 M.I.	19 Taxpayer identification number	
20 Doing business as (DBA) name (see instructions)					Employer identification number	
21 Address (number, street, and apt. or suite no.)				22 Occupation, profession, or business		
23 City		24 State	25 ZIP code	26 Country (if not U.S.)		
27 Alien identification (ID)	a Describe ID ▶ c Number ▶			b Issued by ▶		

16 Individual's last name or organization's name		17 First name		18 M.I.	19 Taxpayer identification number	
20 Doing business as (DBA) name (see instructions)					Employer identification number	
21 Address (number, street, and apt. or suite no.)				22 Occupation, profession, or business		
23 City		24 State	25 ZIP code	26 Country (if not U.S.)		
27 Alien identification (ID)	a Describe ID ▶ c Number ▶			b Issued by ▶		

Comments – Please use the lines provided below to comment on or clarify any information you entered on any line in Parts I, II, III, and IV

Part III of Page 1 of the Form 8300 is comprised of Fields 28 thru 34 and reflects the details regarding the transaction covered by the GTO.

- Field 28: the date of closing (Field 28);
- Field 29: the total amount received in the form of cash, cashier's checks, traveler's checks, money orders, personal checks, business checks, and certified checks
- Field 30: select the box if there were multiple payments received (example: if earnest money was received with the contract, and a cashier's check was received at closing for the remainder, the box would be checked because cash was received in more than one payment);
- Field 31: the total purchase price of the Covered Transaction
- Field 32: the total amount of each form of payment along with the issuer's name and serial numbers and/or check numbers of the monetary instruments ;
- Field 33: select box b for "Real property purchased"
- Field 34: the address of the real property which is the subject of the Covered Transaction is shown in Field 34.

Part III Description of Transaction and Method of Payment

28 Date cash received M M D D Y Y Y Y 	29 Total cash received \$.00	30 If cash was received in more than one payment, check here <input type="checkbox"/>	31 Total price if different from item 29 \$.00
32 Amount of cash received (in U.S. dollar equivalent) (must equal item 29) (see instructions):			
a U.S. currency \$.00 (Amount in \$100 bills or higher \$.00)			
b Foreign currency \$.00 (Country ▶)			
c Cashier's check(s) \$.00		Issuer's name(s) and serial number(s) of the monetary instrument(s) ▶	
d Money order(s) \$.00			
e Bank draft(s) \$.00			
f Traveler's check(s) \$.00			
33 Type of transaction			34 Specific description of property or service shown in 33. Give serial or registration number, address, docket number, etc. ▶
a <input type="checkbox"/> Personal property purchased		f <input type="checkbox"/> Debt obligations paid	
b <input type="checkbox"/> Real property purchased		g <input type="checkbox"/> Exchange of cash	
c <input type="checkbox"/> Personal services provided		h <input type="checkbox"/> Escrow or trust funds	
d <input type="checkbox"/> Business services provided		i <input type="checkbox"/> Bail received by court clerks	
e <input type="checkbox"/> Intangible property purchased		j <input type="checkbox"/> Other (specify in item 34) ▶	

Part IV of Page 1 is completed with the information about the title insurance agency responsible for reporting the covered transaction via E-file to FinCEN through the Bank Secrecy Act E-filing system (<http://bsaeiling.fincen.treas.gov/main.html>). Information is required in all fields for this part (Fields 35 thru 45).

Part IV Business That Received Cash

35 Name of business that received cash				36 Employer identification number	
37 Address (number, street, and apt. or suite no.)				Social security number	
38 City	39 State	40 ZIP code	41 Nature of your business		
42 Under penalties of perjury, I declare that to the best of my knowledge the information I have furnished above is true, correct, and complete.					
Signature ▶ _____			Title ▶ _____		
Authorized official					
43 Date of signature M M D D Y Y Y Y	44 Type or print name of contact person			45 Contact telephone number	

All transactions subject to the GTO must be submitted by E-filing with 30 days of the transaction closing. In addition to the E-filing, submit copies of the completed and signed FinCEN Form 8300 along with copies of the identifying document for each individual primarily responsible for representing the purchasing legal entity, and the identifying document for each member of the LLC, and the identifying document for each "Beneficial Owner" is to be submitted to First National Title Insurance Company at FinCEN@fnti.com.

VI. What about retaining the records and information?

All the information and records relating to compliance with the GTO must be retained for 5 years from the last day the GTO is effective (including any extensions or renewals), and retained in a manner that can be accessed in a reasonable

period of time and made available to FinCEN, any other appropriate law enforcement or regulatory agency, or FNTI upon request.

VII. Penalties for non-compliance

We at FNTI strongly urge our Agents to take this GTO seriously as criminal penalties (including imprisonment) and civil penalties may be imposed against the company or any of its employees for non-compliance.

Attached to this Bulletin is an "Information Gathering Form" which might be helpful as a checklist in determining transactions covered by the GTO. This "Information Gathering Form" was supplied by the American Land Title Association and we have received approval to distributed this form to Agents.

We are FNTI continue to monitor all communications from FinCEN, the American Land Title Association and the Texas Land Title Association regarding the GTO and may amend the above information should we become aware of necessary and/or needed changes. Not only are we at FNTI available for questions, there is a FinCEN Resource Center which may be contacted at 800-767-2825, Monday thru Friday from 8 a.m. to 6 p.m. Eastern time).