

## **Guide to FinCEN Geographical Targeting Order**

The Financial Crimes Enforcement Network (FinCEN) will be enacting a Geographical Targeting Order (GTO) affecting specified geographic areas. A copy of this Order is provided on [CATIC Title's website](#). This Order is designed to identify money laundering schemes involving purchases of real estate. In order to comply with this Order, CATIC Title agents will be required to collect and report information about persons involved in real estate transactions, as described below.

### **Background**

FinCEN is a bureau of the U.S. Treasury Department, which is authorized to collect and analyze financial transaction data in order to detect and prevent money laundering under the Bank Secrecy Act, 31 U.S.C. § 5311 et seq.

### **Information Collection & Reporting Requirements under the GTO**

FinCEN has issued a GTO to **take effect on October 22, 2023 and ending on April 18, 2024**. The effective period of the GTOs for purchases in newly added areas, including Massachusetts Counties of Bristol, Essex, Norfolk, and Plymouth and Florida Counties of Hillsborough, Pasco, Pinellas, Manatee, Sarasota, Charlotte, Lee, and Collier begins on November 21, 2023. During this period, CATIC Title agents will be required to collect certain information for Covered Transactions.

**Covered Transactions** (GTO Section II.A) – a transaction must meet each of the criteria listed below:

- Property purchased is **residential real property** in one of the following geographic areas, inter alia:
  - ***the Boroughs of Brooklyn, Queens, Bronx, Staten Island, or Manhattan in New York City, New York;***
  - ***Fairfield or Litchfield Counties, Connecticut;***
  - ***Suffolk, Middlesex, Bristol, Essex, Norfolk, or Plymouth Counties, Massachusetts;***
  - ***Miami-Dade, Broward, Palm Beach, Hillsborough, Pasco, Pinellas, Manatee, Sarasota, Charlotte, Lee, or Collier Counties, Florida;*** or
  - ***Cook County, Illinois;***
- Property is purchased by a **Legal Entity**, defined as a corporation, limited liability company, partnership, or other similar business entity that is not a U.S. publicly-traded company (*note that purchases by individuals and/or trusts do not trigger the GTO reporting requirement*);
- The **purchase price is \$300,000** or more;
- The purchase is made **without a bank loan** or other similar form of external financing; and
- The purchase is made, at least 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, a funds transfer, or virtual currency**

To assist CATIC Title agents in determining whether a transaction is a Covered Transaction, CATIC Title has created a Covered Transaction Worksheet available on [CATIC Title's website](#).

**Commitment Requirement** – if a transaction meets the criteria above, the following language **MUST** be included in every Commitment for Title Insurance in Schedule B, Part 1:

**This transaction may be subject to a federal requirement to collect additional information regarding the purchase of the Land. Federal laws authorize the U.S. Department of Treasury to collect this information about transactions in specific geographic areas. This Title cannot be insured until all of the required information is collected by the Issuing Agent and submitted to the U.S. Treasury Department.**

**Information to be Collected** (GTO Section II.B) – if a transaction qualifies as a Covered Transaction according to the criteria above, the CATIC Title agent must collect the following information:

- Information about the ***identity of the individual primarily responsible for representing the Legal Entity*** (as defined above), including a copy of this individual’s driver’s license, passport, or other similar identifying documentation
- Information about the ***identity of the Purchaser***, defined as the Legal Entity that is purchasing residential real property as part of a Covered Transaction
- Information about the ***identity of the Beneficial Owner(s)***, defined as each individual who, directly or indirectly, owns 25% or more of the equity interests of the Purchaser, including a copy of each Beneficial Owner’s driver’s license, passport, or other similar identifying documentation
- ***Date of closing***
- Total ***purchase price*** of the real property and the ***method of payment***
- ***Address*** of real property

CATIC Title agents may use the FinCEN Information Collection Form located on [CATIC Title’s website](#) to assist in collecting necessary information that must be reported to FinCEN.

### **Reporting Requirements** (GTO Section II.B)

CATIC Title agents that are involved in a Covered Transaction must report the transaction to FinCEN by completing an electronic Currency Transaction Report (CTR). To do so, agents must first create an account with the BSA E-Filing system at: [https://bsaefiling.fincen.treas.gov/Enroll\\_Now.html](https://bsaefiling.fincen.treas.gov/Enroll_Now.html). Agents can then complete the Currency Transaction Report available through the BSA E-Filing website.

Currency Transaction Reports must be submitted ***within 30 days of the closing***.

The GTO contains guidelines and reporting requirements for completing the Currency Transaction Report, which CATIC Title agents must follow. To assist agents, CATIC Title has posted on its [website](#) a FinCEN GTO Instructional Overview, which provides detailed guidance as to how to complete this form.

Within ***5 days*** of submitting the report to FinCEN, CATIC Title agents shall provide a copy of the Currency Transaction Report to CATIC Title by:

- Email to: [SMaggiola@catictitle.com](mailto:SMaggiola@catictitle.com) OR

- Mail to: CATIC Title Insurance Company  
 ATTN: GTO Filing  
 660 White Plains Road, Suite 570  
 Tarrytown, NY 10591

**Retention of Records** (GTO Section III.C)

Closing attorneys and title agents must retain all records relating to compliance with this GTO **for 5 years from the last day the Order is effective (including any renewals)**. CATIC Title agents must provide these records to FinCEN or another appropriate law enforcement or regulatory agency upon request.

**Penalties for Noncompliance** (GTO Section III.G)

Closing attorneys and title agents may be liable for civil and criminal penalties for violating any of the terms of the GTO. Penalties can range as follows:

**Criminal Penalties**

Type of Violation	Penalty
Willful violation	Up to \$250,000 fine and 5 years in prison
Willful violation while violating another law of the U.S.	Up to \$500,000 fine and 10 years in prison
Structuring or assisting in structuring a transaction to avoid the currency transaction reporting	Fine in accordance with title 18, United States Code and up to five years in prison

**Civil Penalties**

Type of Violation	Penalty
Willful violation (a separate violation occurs for each day the violation continues and each location where a violation occurs)	Greater of the amount involved (up to \$100,000) or \$25,000
Failure to file a report, material misstatement or omission	Not to exceed the amount involved in the transaction
Structuring or assisting in structuring a transaction to avoid the currency transaction reporting	Not to exceed the amount involved in the transaction
Negligence	Not to exceed \$500 or \$50,000 if a pattern of negligence is found

**Attorney-Client Privilege Not Applicable**

Information necessary for complying with the GTO cannot be withheld from the government due to attorney-client privilege. See United States v. Goldberger & Dubin, P.C., 935 F.2d 501 (2nd Cir. 1991), holding that, absent special circumstances, attorneys were required to disclose client information on IRS disclosure forms. See also United States v. Leventhal, 961 F.2d 936 (11th Cir. 1992), holding that state bar ethical rules do not constitute a “special circumstance” that would protect clients’ names and fee arrangements from disclosure.