

FinCEN GTO: What You Need to Know

Table of Contents

- 1) **Background**
- 2) **Information Collection & Reporting Requirements**
 - What is a Covered Transaction?
 - CATIC Title Commitment Requirement
 - Information to be Collected
 - How to Submit a Currency Transaction Report
- 3) **Penalties for Noncompliance**
- 4) **Attorney-Client Privilege Not Applicable**

Background



Who is FinCEN?

- **FinCEN = Financial Crimes Enforcement Network**
 - A bureau of the U.S. Treasury Department
- **Mission:** “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.”
- **Authority:**
 - **Bank Secrecy Act**
 - **Currency and Financial Transactions Reporting Act of 1970**
 - **USA PATRIOT Act of 2001**

What is a GTO?

- GTO = Geographic Targeting Order
- Order imposing additional **recordkeeping and reporting requirements** on domestic financial institutions or non-financial trades or businesses in a **specific geographic area** for transactions involving **certain amounts** of United States currency or monetary instruments

Information Collection & Reporting Requirements

The Basics

- **Who: Financial Crimes Enforcement Network (FinCEN)**
- **What: Geographic Targeting Order (GTO)**
- **When: effective May 10, 2020 through November 5, 2020**
 - ***Can be renewed**

Triggering Factors

Transaction must include **EACH** of these factors to be a Covered Transaction

Residential Property

Real property that is used primarily as a 1-4 family dwelling

Located in Specified Counties

- Inter alia, Boroughs of Brooklyn, Queens, Bronx, Staten Island, or Manhattan in New York City, New York
- Suffolk or Middlesex County, MA
- Miami-Dade, Broward, or Palm Beach County, FL

Purchase Price is At or Above the Threshold

Threshold: \$300,000

Purchase Was Made with a Form of Cash

Forms include:

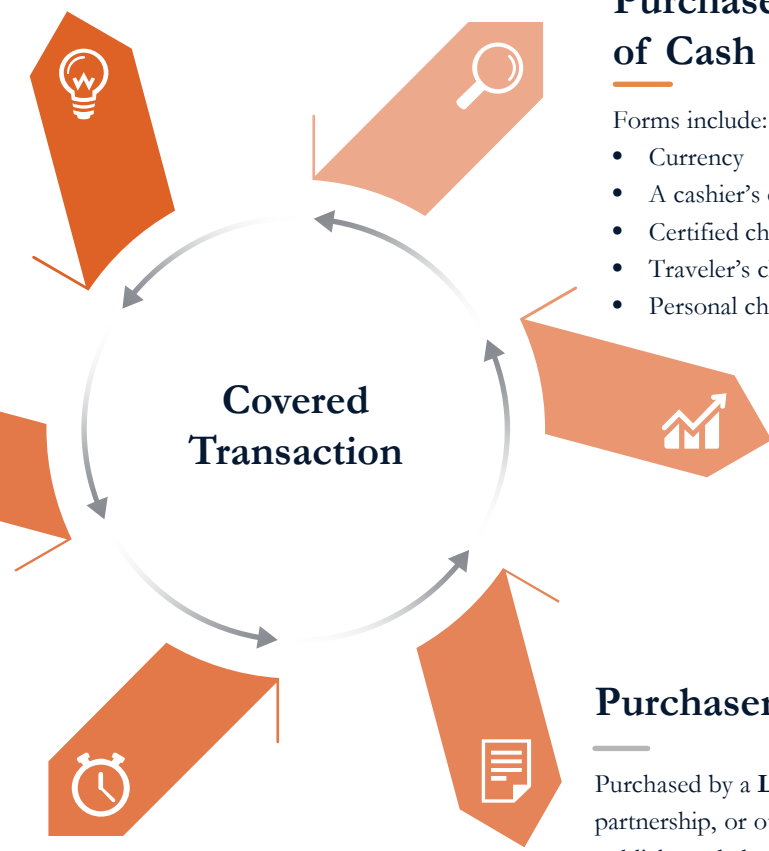
- Currency
- A cashier's check
- Certified check
- Traveler's check
- Personal check
- Business check
- Money order in any form
- Funds transfer, or
- Virtual currency

Purchase Was Without a Bank Loan

Or without other similar form of external financing

Purchaser is Not an Individual

Purchased by a **Legal Entity** (a corporation, LLC, partnership, or other similar business entity that is not a U.S. publicly-traded company)



CATIC Title Commitment Requirement

If a transaction meets these criteria, 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

If a transaction qualifies as a **Covered Transaction**, 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

Information to be Collected (cont.)

If a transaction qualifies as a **Covered Transaction**, the CATIC Title agent must collect the following information:

- **Date of closing**
- **Total purchase price of the real property and the method of payment**
- **Address of real property**

How to Submit a Currency Transaction Report

- CATIC Title agents who are involved in a Covered Transaction must report the transaction to FinCEN
- CATIC Title agents must *file a FinCEN Currency Transaction Report within 30 days of the closing*
- Within *5 days of submission*, agents must provide a copy of the submitted Currency Transaction Report to CATIC Title by:
 - •Email to: **RPicone@catictitle.com** or
 - •Mail to: **CATIC Title Insurance Company**
ATTN: GTO Filing
660 White Plains Road, Suite 570
Tarrytown, NY 10591

How to Submit a Currency Transaction Report (cont.)

- In order to electronically file a Currency Transaction Report, CATIC Title agents must first create a BSA E-Filing User account by visiting:
https://bsaefiling.fincen.treas.gov/Enroll_Now.html
- CATIC Title agents can then access the Currency Transaction Report (CTR) template located at:
https://bsaefiling.fincen.treas.gov/docs/GTO/RealEstate_GTOTemplate.pdf
- For help filing, contact the FinCEN Help Desk at (866) 346-9478 or FRC@FinCEN.gov

Currency Transaction Report

Page 1



Currency Transaction Report

OMB No. 1506-0004, OMB No. 1506-0005, OMB No. 1506-0064

Version Number: 1.3

Steps to Submit

1. Complete the report in its entirety with all requested or required data known to the filer.
2. Click "Validate" to ensure proper formatting and that all required fields are completed.
3. Sign with PIN.
4. Click "Save"; filers may also "Print" a paper copy for their records.
5. Click "Submit".

Filing Name

*1 Type of filing

Initial report

Correct/amend prior report

FinCEN directed Backfiling

Prior report BSA Identifier

Save

Validate

Submit

Print

By providing my PIN, I acknowledge that I am electronically signing the BSA report submitted.

Sign with PIN

Currency Transaction Report

Page 2

Home

Step 1. Filing Institution Contact Information

Step 2. Transaction Location(s) Information

Step 3. Person(s) Involved Information

Step 4. Amount and Type of Transaction(s)

Part IV Filing Institution Contact Information

*52 Type of financial institution

Other

Other (specify)

Title Insurance Company

*43 Primary federal regulator

Internal Revenue Service (IRS)

~~*53 If 52a - Casino/Card Club is checked, indicate type (check only one)~~

Not applicable to title agents

~~State licensed casino Tribal authorized casino Card club Other~~

*44 Legal name of filing institution

Agent Name

45 Alternate name, e.g. trade name, DBA

REGTO0520

*46 EIN

Agent's EIN (no spaces or dashes)

Currency Transaction Report

Page 2 (cont.)

*47 Address

Agent's address

*48 City

*49 State

*50 ZIP Code

*51 Country

~~*54 Filing institution ID type~~

~~ID number~~

*55 Contact office

*56 Phone number

*57 Date filed

Title of administrative office to contact for additional information

Phone number of

Ext.

(Date filed will be auto-populated when the form is signed.)

Not applicable to title agents

(e.g., Managing Attorney or Administrative Assistant)

Currency Transaction Report

Page 3

Home

Step 1. Filing Institution Contact Information

Step 2. Transaction Location(s) Information

Step 3. Person(s) Involved Information

Step 4. Amount and Type of Transaction(s)

Part III Transaction Location 1 of 1

Would you like to insert all applicable filing institution information into Part III?

Yes



Select “+” as necessary to allow for the reporting of multiple property addresses

*38 Type of financial institution

Other

Other (specify)

Property Address (Enter Address in Item 33 -37)

*29 Primary federal regulator

Unknown

~~*39 If 38a - Casino/Card Club is checked, indicate type (check only one)~~

Not applicable to title agents

~~State licensed casino Tribal authorized casino Card club Other~~

*30 Legal name of financial institution


N/A

31 Alternate name, e.g. trade name, DBA

Optional field

Currency Transaction Report

Page 3 (cont.)

*32 EIN Unknown  "X" in box will auto-populate


*33 Address **Property Address**


*34 City

*35 State

*36 ZIP Code

*37 Country

~~*40 Financial institution ID type~~ 

~~ID number~~ 

*41 Cash in amount for transaction location

*42 Cash out amount for transaction location **Leave blank**

Not applicable to title agents

Total purchase price of address of real property listed in Fields 33-37.

***This amount must match Field 25.z unless multiple properties are purchased in the same Covered Transaction**

Currency Transaction Report

Page 4

Currency Transaction Report

Provide info about individual primarily responsible for representing Legal Entity

Select "+" as necessary to allow for the reporting of multiple parties

Provide info about:

- Legal entity (& check entity box below) AND
- Beneficial Owner(s)

Step 2. Transaction Information

Involved Information

Part I Person Involved in Transaction(s) 1 of 1



- *2 a Person conducting transaction on own behalf b Person conducting transaction for another c Person on whose behalf transaction was conducted d Common carrier
- 3 Multiple transactions

Check If entity

*4 Individual's last name or entity's legal name Unknown

Individual's last name or entity's legal name

*5 First name Unknown

Individual's first name

6 Middle name

Enter middle name or initial. If unknown, leave blank

Suffix

7 Gender

Drop down menu

8 Alternate name

Enter individual's AKA or Entity's DBA if different from Field 4 above.

Don't include acronym of AKA or DBA

Currency Transaction Report

Page 4 (cont.)

9 Occupation or type of business	Enter specific information. FinCEN template has guidance	
9a NAICS Code	N/A	
*10 Address	<input type="checkbox"/> Unknown	Address of individual or entity identified in Field 4
*11 City	<input type="checkbox"/> Unknown	
*12 State	<input type="checkbox"/> Unknown	*13 ZIP/Postal Code <input type="checkbox"/> Unknown
*14 Country	<input type="checkbox"/> Unknown	
*15 TIN	<input type="checkbox"/> Unknown	16 TIN type
*17 Date of birth	<input type="checkbox"/> Unknown	
18 Contact phone number	Include if known	Ext.
19 E-mail address	Include if known	

Info for individual or entity identified in Field 4

Currency Transaction Report

Page 4 (cont.)

GTO requires agents to “obtain and record” (retain a copy) of each individual’s **driver’s license, passport, or other similar identifying information** and provide a description of that documentation in Field 20 here. **DO NOT CHECK UNKNOWN**

*20 Form of identification used to verify identity

Unknown

Driver's license/State ID Passport Alien Registration Other

Number

Country

Issuing State

~~21 Cash in amount for individual or entity listed in Item 4~~

~~\$~~

~~Account number~~

~~+~~

~~-~~

~~22 Cash out amount for individual or entity listed in Item 4~~

~~\$~~

~~Account number~~

~~+~~

~~-~~

N/A

Currency Transaction Report

Page 5

Currency Transaction Report

Home

Step 1. Filing Institution
Contact Information

Step 2. Transaction Location(s)
Information

Step 3. Person(s) Involved
Information

Step 4. Amount and Type of
Transaction(s)

Part II Amount and Type of Transaction(s). Check all boxes that apply.

*23 Date of transaction ← Date of Closing in MM/DD/YYYY format

~~24 Armored car (FI Contract) ATM Mail deposit or shipment Night deposit Aggregated transactions Shared branching~~

N/A

Currency Transaction Report

*25 CASH IN: (in U.S. dollar equivalent)

a	Deposit(s)	.00
b	Payment(s)	.00
c	Currency received for transfer(s) out	.00
d	Purchase of negotiable instrument(s)	.00
e	Currency exchange(s)	.00
f	Currency to prepaid access	.00
g	Purchases of casino chips, tokens and other gaming instruments	.00
h	Currency wager(s) including money plays	.00
i	Bills inserted into gaming devices	.00

25.a-i not applicable to title agents

z Other (specify):
Enter Type of Instrument, e.g. check and/or wire

Insert total purchase price and method of payment.
 Enter type of instrument, e.g., check, wire, etc.

Total cash in \$.00

*27 CASH OUT: (in U.S. dollar equivalent)

a	Withdrawal(s)	\$.00
b	Advance(s) on credit (including markers)	.00
c	Currency paid from funds	.00
d	Negotiable instrument(s) cashed	.00
e	Currency exchange(s)	.00
f	Currency from prepaid access	.00
g	Redemption(s) of casino chips, tokens, TITO tickets and other gaming instruments	.00
h	Payment(s) on wager(s) (including race and OTB or sports pool)	.00
i	Travel and complimentary expenses and book gaming incentives	.00
j	Payment for tournament, contest or other promotions	.00
z	Other (specify):	.00
Total cash out		\$.00

27.a-z not applicable to title agents

Currency Transaction Report

Page 5 (cont.)

26 Foreign cash in	<input type="text"/>	Foreign Country	<input type="text"/>	<input type="button" value="+"/>	<input type="button" value="-"/>
28 Foreign cash out	<input type="text"/>	Foreign Country	<input type="text"/>	<input type="button" value="+"/>	<input type="button" value="-"/>

Not applicable to title agents

After Filing the Currency Transaction Report

- Record Retention Requirement
 - Agents must retain all records relating to compliance with this GTO for a period of **5 years from the last day that this Order is effective**, which would be November 5, 2025 for the current Order
 - ***Remember:** this Order will likely be renewed. In the event of a renewal, retain records for 5 years from any renewal periods
 - **Store records** in a manner that is reasonably accessible
 - **Make records available** to FinCEN or any other appropriate law enforcement or regulatory agency, upon request

Tools to Help

CATIC Title has provided tools to help agents comply with the GTO

- **Resources include:**
 - A copy of the GTO
 - FinCEN GTO Guide
 - Covered Transactions Worksheet
 - Information Collection Form

To access these resources, please visit

<https://catictitle.com/new-york/resources/fincen-gto>

Penalties for Noncompliance

Penalties for Noncompliance

- **CATIC Title agents may be liable for **civil and criminal penalties** for violating any terms of the GTO**

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

Attorney-Client Privilege

- Attorney-Client Privilege **CANNOT** be invoked to withhold from the government information that is necessary to comply with the GTO
 - 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**
 - 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

Contact Information

Questions may be directed to **Bob Picone** at RPicone@catictitle.com