



FREQUENTLY ASKED QUESTIONS

Issued: October 16, 2024

Subject: Geographic Targeting Orders Involving Certain Real Estate Transactions

On October 15, 2024, FinCEN renewed Geographic Targeting Orders (GTOs) requiring Covered Businesses to collect and report information about certain residential real estate transactions in the following jurisdictions:

- (1) the California counties of Los Angeles, San Diego, San Francisco, San Mateo, and Santa Clara;
- (2) the Colorado counties of Adams, Arapahoe, Clear Creek, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Jefferson, Mesa, Pitkin, Pueblo, and Summit;
- (3) the Connecticut counties of Fairfield and Litchfield;
- (4) the District of Columbia;
- (5) the Florida counties of Broward, Charlotte, Collier, Hillsborough, Lee, Manatee, Miami-Dade, Palm Beach, Pasco, Pinellas, and Sarasota;
- (6) the Hawaii counties of Hawaii, Honolulu, Kauai, and Maui, and the City of Honolulu;
- (7) the Illinois county of Cook;
- (8) the Maryland counties of Anne Arundel, Howard, Montgomery, Prince George's, and Baltimore, or the City of Baltimore;
- (9) the Massachusetts counties of Bristol, Essex, Middlesex, Norfolk, Plymouth and Suffolk;
- (10) the Nevada county of Clark;
- (11) the Boroughs of Bronx, Brooklyn, Manhattan, Queens, and Staten Island in New York City, New York;
- (12) the Texas counties of Bexar (San Antonio), Dallas, Harris (Houston), Montgomery, Tarrant (Fort Worth), Travis (Austin), and Webb;
- (13) the Washington county of King; and
- (14) the Virginia counties of Arlington and Fairfax, and the cities of Alexandria, Fairfax, and Falls Church.

As a general matter, FinCEN expects Covered Businesses to implement procedures reasonably designed to ensure compliance with the terms of the GTOs, including reasonable due diligence to determine whether it (or its subsidiaries or agents) is involved in a Covered Transaction (as defined in the GTOs) and to collect and report the required information. In complying with the

terms of the GTOs, a Covered Business may reasonably rely on information provided to it by third parties, including other parties involved in Covered Transactions.

To assist Covered Businesses in complying with the GTOs, FinCEN is publishing this list of frequently asked questions (FAQs) in response to inquiries FinCEN has received. These FAQs are applicable only to the GTOs and should not be construed to apply to any other FinCEN regulation or order. Terms used but not otherwise defined herein shall have the meaning set forth in the GTOs. For additional questions, please contact the FinCEN Resource Center at FRC@FinCEN.gov.

1) What does the term “residential real property” mean?

For purposes of the GTOs, “residential real property” means real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of one to four families.

2) To what extent must a Covered Business verify information about the Beneficial Owner of a Legal Entity purchaser?

The GTOs require a Covered Business to collect and report certain identifying information about the Beneficial Owner(s) of the purchaser in a Covered Transaction if the purchaser is a Legal Entity (as defined in the GTO). For purposes of the GTOs, a “Beneficial Owner” means each individual who, directly or indirectly, owns 25 percent or more of the equity interests of the Legal Entity purchaser. The GTOs provide that the Covered Business must obtain and record a copy of the Beneficial Owner’s driver’s license, passport, or other similar identifying documentation. The Covered Business may reasonably rely on the information provided to it by third parties involved in the Covered Transaction, including the Purchaser or its representatives, in determining whether the individual identified as a Beneficial Owner is in fact a Beneficial Owner.

3) If a Legal Entity purchaser has already reported information about its Beneficial Owner(s) to FinCEN pursuant to the reporting requirements of the Corporate Transparency Act, is a Covered Business still required to collect and report identifying information about the Beneficial Owner(s) of the Legal Entity purchaser?

Yes. The information collection and reporting requirements imposed by the GTOs are separate and distinct from the reporting requirements imposed through the Corporate Transparency Act (CTA) and its implementing regulations. As such, providing or reporting beneficial ownership information pursuant to the CTA and its implementing regulations does not eliminate the separate requirement to collect and report identifying information about the Beneficial Owner(s) of the Legal Entity purchasers. Likewise, if a Legal Entity purchaser is required to report its beneficial ownership information under the CTA and its implementing regulations, that Legal Entity purchaser is still required to do so, even if it has already provided identifying information about its Beneficial Owner(s) in connection with the GTOs.

4) Who is considered a Covered Business’s “agents” for purposes of the GTOs?

FinCEN notes that the recordkeeping and reporting requirements under the GTOs are triggered only when a Covered Business (or its subsidiaries or agents) is involved in a Covered Transaction. In this context, a Covered Business's "agents" generally refers to people or entities that are authorized by the Covered Business, usually through a contractual relationship, to act on its behalf to provide title insurance underwritten by the Covered Business (or its subsidiaries).

FinCEN also recognizes that a person or entity may be an independent agent of a Covered Business, and thus may act on behalf of multiple title insurance companies. A Covered Business is responsible for the recordkeeping and reporting requirements under the GTOs only when such agents are acting on its behalf in connection with a Covered Transaction.

5) What methods of payment are covered under Section II.A.2.iv of the GTOs?

Section II.A.2.iv of the GTOs, which lists one of the four criteria that triggers a Covered Transaction, provides: "Such 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, or a money order in any form, a funds transfer, or virtual currency." Accordingly, payment of at least part of the purchase price using one of these methods, such as virtual currency, a wire transfer, a cashier's check (sometimes referred to as a "bank check," "official check," or "treasurer's check"), a personal check, a business check, or a certified check, triggers a Covered Transaction, assuming the other three criteria listed in Section II.A.2 are met. With respect to information required to be reported in Field 25.z of the FinCEN Currency Transaction Report, the Covered Business should include the total amount of the purchase price of the Covered Transaction. When reporting a purchase of multiple properties in the same Covered Transaction, report total purchase price in Part II, Field 25.z, and price per property in Field 41 for each property.

6) Is there a *de minimis* exception regarding the methods of payment covered under Section II.A.2.iv of the GTOs?

No. If any part of the purchase price was made using a method of payment specified in Section II.A.2.iv of the GTOs, then the transaction is considered a Covered Transaction (assuming the other three criteria listed in Section II.A.2 are met). FinCEN expects a Covered Business to take reasonable steps to determine whether any part of the purchase price was made using a method of payment specified in Section II.A.2.iv of the GTOs. FinCEN recognizes that in some instances a small percent of the purchase price of a residential real estate transaction may be held by a third party, such as a real estate agent holding an earnest money deposit. A Covered Business may reasonably rely on information provided to it by such third parties.

7) Who is the "individual primarily responsible for representing the Legal Entity" purchaser?

The "individual primarily responsible for representing the Legal Entity" means the individual authorized by the entity to enter legally binding contracts on behalf of the entity.

8) How long must a Covered Business retain records relating to compliance with the GTOs?

Pursuant to the GTOs, a Covered Business must retain all records relating to compliance with the GTOs for at least five years from the last day that the GTOs are effective (including any renewals thereof).

9) To report a Covered Transaction under the GTOs, how must a Covered Business file a FinCEN Currency Transaction Report?

In order to electronically file a Currency Transaction Report containing reports under the GTOs, a Covered Business will need a BSA E-Filing User account. To create a BSA E-Filing User account, please visit https://bsaefiling.fincen.treas.gov/Enroll_Now.html. For more information on E-Filing, please visit <https://bsaefiling.fincen.treas.gov> and review “About the BSA E-Filing System”.

10) How has the definition of a Covered Transaction changed from previous GTOs?

Section II.A.2.iii of Real Estate GTOs issued prior to April 2023 defined an element of a Covered Transaction to include where “such purchase is made without a bank loan or other similar form of external financing.” FinCEN has received numerous inquiries from covered businesses about the meaning of “similar form of external financing”, and whether certain real estate purchases qualify. For this reason, and consistent with previous guidance provided in response to such inquiries, the April 2023 GTOs provided a revised definition to reduce confusion and burden for covered businesses. Section II.A.2.iii now includes as an element of a Covered Transaction that “[s]uch purchase is made without a bank loan or other similar form of external financing by a financial institution that has both an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions under FinCEN regulations appearing in Chapter X of Title 31 of the Code of Federal Regulations.” In other words, if the purchase was made without a loan from a financial institution with AML/CFT program requirements and SAR filing requirements and meets the other criteria in the order, it is a Covered Transaction, and a report must be filed.