



By Lisa A. Tyler
National Escrow Administrator

Currently, under the Geographic Targeting Orders (GTOs), settlement agents in specific geographic areas are required to report certain transactions to the Financial Crimes Enforcement Network (FinCEN), as part of an effort to curb money laundering within the real estate industry. GTOs are required to be limited to six months, after which they can be renewed, and limited to specific targeted areas.

However, starting December 1, 2025, a permanent reporting requirement, the Anti-Money Laundering Regulations for Residential Real Estate Transfers rule, is set to replace the GTO. In the process, the Anti-Money Laundering Regulations for Residential Real Estate Transfers rule will expand to **ALL** U.S. states and territories — significantly increasing the number of reportable transactions and the information requested for each transaction.

Discover the substantial differences between the GTO and the new rule in the article titled “COMPARING and contrasting the geographic targeting orders (GTOs) with the anti-money laundering regulations for residential real estate transfers.”

In addition to title examination expertise, title officers must have keen detective skills. They spend time tracking down notaries to verify the legitimacy of deeds and other legal documents prior to closing and insuring real estate transactions. Those efforts continue to pay off. The title officer featured in this story identified the red flags, followed her instincts and uncovered a forgery. Read “THIEVES revealed” for the details on her decision to resign from the transaction.

Last year we shared some questions and answers (Q&As) from our live escrow training events in our May 2024 issue. The response was overwhelmingly positive, so we decided to include Q&As in each issue this year. Be sure to read “I wanna know...”

IN THIS ISSUE



Share Fraud Insights
via email, mail or word of mouth.



volume 20 issue 2
February 2025

Publisher
Fidelity National Financial

Editor
Lisa A. Tyler
National Escrow Administrator



COMPARING and contrasting the geographic targeting orders (GTOs) with the anti-money laundering regulations for residential real estate transfers

If your operation is currently under the Geographic Targeting Orders (GTOs), it is important to understand the new rule is not simply a new GTO. There are substantial changes to the information collected and the method of reporting.

Starting with a clean slate is potentially the only way to fully comply. Furthermore, reinforcing this is a **new** rule with your customers will aid in reducing confusion and resistance to supplying the more detailed and inclusive information to be collected.

This is no longer just a “GTO.” If you are in an area not currently covered by the GTO this will be a drastic change for your market. Customers will not understand the level of information needed and may not be aware of the new regulations.

Comparing and contrasting the existing GTO and Anti-Money Laundering Regulations for Residential Real Estate Transfers rule will hopefully provide insight to settlement agents and customers who may or may not have to comply with the existing GTO.

	Current GTO	Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule
VIP dates	Expiring April 14, 2025 (Potential renewal until November 30, 2025)	Effective December 1, 2025
What areas are covered?	Specific metropolitan areas and counties within 13 states, including New York, California, Florida and others.	All 50 states and U.S. territories
What type of buyer is covered?	Buyer must be a legal business entity (LLC, corporation, partnership) EXCEPT for (1) a Reverse Exchange or (2) a business publicly traded; or (3) a self-regulatory organization registered with the SEC	Buyer must be an entity excluding publicly traded companies, governmental authorities, exchange companies (Full list available at 31 CFR 1031.320(n)(10)) OR buyer is a trust as defined by 31 CFR 1031.320(n)(11)
What type of real estate is covered?	Sale of residential property (1 to 4 family) including condominiums and co-ops and easements (not including vacant land); and Sale price is at least \$300,000 or more (other than Baltimore County)	Any sale within all 50 states and U.S. territories No minimum purchase price Sale of residential 1-4 family properties, vacant land on which the buyer intends to build a structure primarily for occupancy by 1-4 families, co-ops, condominiums, mixed use and apartment buildings. Excludes easements.
What type of monetary payment is covered?	Purchase is made without a bank loan or 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; and Any portion of the transaction is paid with cash, cashier's check, certified check, traveler's check, personal check, business check, money order, funds transfer or virtual currency.	Any non-financed purchase and instances of private or seller financing where the loan or funds are provided by a bank, mortgage broker or mortgage banker or other source that does not have an anti-money laundering program. The new rule does state the funding of the loan must be secured by the subject property, so lines of credit secured by other collateral used to purchase would be considered reportable.

[Continued on pg 3]



TELL US HOW YOU STOPPED FRAUD

settlement@fnf.com or 949.622.4425

[COMPARING and contrasting the geographic targeting orders (GTOs) with the anti-money laundering regulations for residential real estate transfers - continued]

	Current GTO	Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule
VIP dates	Expiring April 14, 2025 (Potential renewal until November 30, 2025)	Effective December 1, 2025
What information is collected?	Transaction details (address, sales price); purchasing entity information including beneficial owners, authorized signer type and number of payments (no account information)	Transaction details (address, sales price, legal description); transferee entity/trust information including beneficial owners and authorized signers; transferor entity/trust information including beneficial owners and authorized signers; payment Information including method, account numbers, and names of payors
Who is responsible for reporting?	The GTO required title insurance companies to identify and report transactions meeting the GTO requirements.	The new rule originally requires the person listed as the settlement agent to file a report. However, if no settlement agent is listed the rule implements a waterfall list, where the highest person named on the list involved with the transaction would be responsible.
How do you report?	FinCEN required title insurance companies to file a Currency Transaction Report (CTR) not specific to the GTO for each transaction.	Under the new rule a new form is being created* specifically for reporting. Currently, the proposed rule has up to 111 data points that may be applicable, depending on the details of the transaction (not including additional persons/information).

Understanding the shift from the GTO to the Anti-Money Laundering Regulations for Residential Real Estate Transfers rule will help to avoid confusion. While similar on a basic level, the new rule adds additional complexity and required information.

Customers may not understand the change, which may create friction for those currently subject to the GTO. Buyers and sellers may question the required additional information so it will be important to highlight the change before December 1, 2025.

*The new form is undergoing FinCEN's review for public comments.

Article provided by contributing author: Scott Cummins, Advisory Director • Fidelity National Title Group • National Escrow Administration

THIEVES revealed

On July 16, 2024, Title Officer Sarah Verplanck, with Tigor Title of California, was assigned a rush title order covering a vacant lot selling for \$21,000. Sarah completed the title search and issued the Preliminary Report (prelim) the same day.

The prelim revealed three uninsured deeds in the chain of title from 2004, which included the deed to the sellers of the property. Sarah notified the settlement agent she needed the Uninsured Deed Affidavits from the grantors of all three uninsured deeds.

On Friday, August 2, 2024, the settlement agent sent all the closing documents, including the fully executed Uninsured Deed Affidavits, to Tigor Title of California requesting they be recorded on Monday, August 5, 2024. Sarah reviewed the documents and noticed several concerns:

- » The documents were all notarized at the U.S. Embassy in Hanoi, Vietnam, yet all the signers were from the Philippines.
- » The notary seal did not look like other consular seals.
- » The documents were all executed on July 22, 2024, which was only six days after the prelim was issued. This was extremely unusual, since most U.S. Embassies do not have appointments available for notarization that quickly.
- » There were ten signers who all appeared at the U.S. Embassy together to sign. What are the chances they were all available on the same day, at the same time?

- » They all included a photocopy of their passports, which the notary signed and then affixed her notary seal to. This was not a requirement to close.

Sarah escalated her concerns to her manager, who immediately contacted the U.S. Embassy. He sent over a copy of the documents and asked if they would confirm they were notarized there. The very next day this response was sent:

Thank you for contacting the U.S. Embassy Hanoi. We would like to confirm that the attached documents were neither signed nor notarized by the U.S. Embassy Hanoi, Vietnam.

We hope this information is useful to you.

*Best regards,
Fraud Prevention Unit
Consular Section
U.S. Embassy Hanoi*

Tigor Title of California declined to insure the transaction. Sarah's dedication and focus averted a claim for the Company and earned her a \$1,500 reward.

Documents purportedly notarized at a U.S. Embassy need to be scrutinized just as much as any other. In this instance, the title department took the extra steps to avoid insuring a forgery. Never hesitate to perform the necessary due diligence.

Article provided by contributing author: Diana Hoffman, Corporate Escrow Administrator • Fidelity National Title Group • National Escrow Administration

I wanna know...

The questions posed in each of the following scenarios are similar to questions submitted by our settlement agents nationwide. Read each scenario and determine how you would answer the settlement agent's question.

The questions provide multiple choice answers, and the correct answers are located at the end of this article. HINT: There may be more than one correct answer.

Although these scenarios seem real, they are not. They are all fiction. Any similarities to a transaction you may be handling or have handled are only a coincidence. For questions regarding any of these scenarios, please reach out to settlement@fnf.com.

Scenario #1: You have a refinance transaction. The borrower as shown on the lender's closing instructions is Betty Borrower, but the title report says Sally Jones is the owner of the property. The lender's instructions further instruct you to show Betty as the borrower on the closing statement and have Sally sign the Deed of Trust or Mortgage, TIL and Notice of Right to Rescind only. Doesn't the borrower and trustor/mortgagor have to match?

- A. Yes, the borrower and owner of the property must match.
- B. No, the borrower can be different than the owner of the property being pledged as collateral for the loan.

Scenario #2: You received a call from a real estate agent who wants to send you a cash sale. The purchaser LITERALLY wants to bring in CASH at closing. The sales price is \$75,250. What are our guidelines on accepting cash?

- A. If the cash is reported to the IRS on Form 8300, you can accept the cash.
- B. We do not accept cash in any amount.
- C. Have the buyer meet you at the bank and deposit right into your trust account.

Scenario #3: You have a sale transaction. The seller is a trust. They have given us the first amendment to the trust which says the first \$90,500 of the proceeds should be paid to a daughter and

Answers to "I wanna know..."

Scenario #1: Answer B. No, the borrower can be different than the owner of the property being pledged as collateral for the loan.

Scenario #2: Answer B. It is unsafe for a settlement agent to accept cash at an office since they do not have a place such as a waterproof, theft proof, fireproof safe to store the cash. In addition, offices do not have the means to secure the cash for delivery to the bank for deposit. Employee safety is the highest priority and taking in cash payments jeopardizes safety.

Banks are highly regulated and have to report cash deposits to federal agencies. Cash deposits at a bank trigger reporting, which would be done in the name of the remitter or settlement agent, not the customer.

Scenario #3: Answer A. You should not pay anyone other than the owner of record for the following reasons:

- » Legal: The settlement agent would have no idea if we had the trust agreement (and all amendments thereto) to know whether or not a third-party payment was allowed, nor would the settlement agent want to jeopardize their Company getting dragged into post-closing litigation for paying unauthorized third parties.
- » IRS Reporting: Distributions made on behalf of the trust to its beneficiaries are separately reportable on a 1099. The settlement

agent is only responsible for reporting the transfer of real estate on a 1099-S. The settlement agent would not know which of the 17 different 1099 forms to use to report distributions, nor should they take on the responsibility or liability for reporting.

- A. No, it is the trustee's obligation to make distributions to beneficiaries of the trust.
- B. Yes, the trust serves as the written instruction for the sales proceeds.

Scenario #4: You are processing a short sale transaction where the buyer has deposited earnest money into escrow. The buyer cancels, the deposit is returned to the buyer. The seller finds a new buyer. Can you just use the same file and deposit the second buyer's deposit in the same file number?

- A. Yes, just update the order with the new buyer's name.
- B. No, even if the first transaction did not close, the transaction details are still confidential and cannot be commingled with the new buyer's offer.

Scenario #5: At closing, the listing broker gives you written instructions to disburse the commission due her brokerage to her parents. Her parents are not licensed real estate agents, do you comply?

- A. No
- B. Yes

Scenario #6: Two friends are in title. One of the friends is selling her partial interest to the other. The owners have entered into a purchase agreement and are treating the transfer as a sale, but the lender is asking you to treat the transactions as a refinance. Can you oblige with their direction in writing?

- A. Yes
- B. No

Article provided by contributing author:

Diana Hoffman, Corporate Escrow Administrator
Fidelity National Title Group
National Escrow Administration

agent is only responsible for reporting the transfer of real estate on a 1099-S. The settlement agent would not know which of the 17 different 1099 forms to use to report distributions, nor should they take on the responsibility or liability for reporting.

- » New lender: If there is a new lender on the transaction it is likely their loan instructions prohibit the payment of proceeds to anyone other than the owner of record, since payments to third parties out of the seller proceeds have historically proven to be a tell-tale sign of mortgage fraud.

Alternatively, the owner of record could direct the escrow officer to pay the proceeds to the trust account of their attorney on their behalf to make the distribution and perform the necessary IRS reporting. Or, they could add the trust to their existing bank account.

Scenario #4: Answer B.

Scenario #5: Answer A. No, paying unlicensed persons is a civil code violation in most states. Courtesy payments made on behalf of a brokerage are not extended to relatives as the payment could be conceived as aiding income tax evasion.

Scenario #6: Answer A. Yes, if you close the refinance in one file and close the sale in a separate file — with both files closing concurrently.