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Tighter federal regulations coming to luxury real estate market soon

The US Treasury Department is poised to enact expanded reporting measures on luxury home sales, putting an end to anonymous purchases that have enabled oligarchs, terrorists and others

By **Lillian Dickerson**
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Image by: Glowimages/Getty Images

The U.S. Treasury Department is poised to announce later this month expanded reporting measures on luxury home sales, ending the anonymous luxury home purchases that have enabled individuals like oligarchs, terrorists and other criminals to shelter financial gains in real estate, *Reuters* reported Thursday.

The rule will require real estate professionals like title insurers to report identities of the owners of companies purchasing real estate in cash to the Treasury's Financial Crimes Enforcement Network (FinCEN). That means no more nameless, faceless LLCs buying up penthouses.

According to FinCEN's regulatory agenda, the agency is scheduled to propose a new rule later this month, but that timeline could be delayed, individuals briefed on the developments told *Reuters*.

For decades, criminals have stowed away ill-gotten gains through real estate investments, Treasury Secretary Janet Yellen said in March, noting that as much as $2.3 billion was laundered through U.S. real estate between 2015 and 2020.

“That’s why FinCEN is taking this important step to put something officially on the books that would root out money laundering through the sector once and for all,” Erica Hanichak, government affairs director of advocacy group the FACT Coalition, said at the time.

FinCEN officials first said they had plans to implement the rule in 2021 — and some advocates of it say they’ve moved too slowly to enact it.

The proposed rule will also reportedly be open to feedback from both the public and individuals within the real estate industry.

Currently, FinCEN has real estate purchase disclosure rules in effect in a few select cities, including New York, Miami and Los Angeles. These disclosure rules are called “geographic targeting orders” or GTOs, which require financial institutions to report on transactions above a specified amount, depending on the location.

The new rule is expected to expand GTOs nationwide, but it’s unclear how much, if at all, it will change the GTOs currently existing in select areas.

FinCEN first created GTOs in 2016 after *New York Times* reporting found that nearly half of all luxury real estate was purchased by anonymous shell companies. Reporting rules are currently easy to skirt, however, for individuals who purchase real estate outside of the designated geographic areas.

Although the burden of reporting is largely placed on title insurers and not real estate agents or brokers (at least for now), the National Association of Realtors has also published in recent years voluntary guidelines for Realtors who wish to help curb money laundering and terrorism financing.

“Privacy is definitely paramount to our clientele,” Ivan Chorney of Compass in Miami told Inman. “We primarily work with high-net-worth and ultra-high-net-worth buyers and sellers, and thankfully [my clients] don’t have anything to hide — I don’t have any oligarchs or terrorists who have employed my services. But I have had CEOs of major brands and Fortune 500 companies and privacy is just as important to them.”

Ivan Chorney | Compass

Despite potentially more stringent requirements that title insurers will face across the country with FinCEN’s anticipated new rule, Chorney said that, based on the somewhat limited information currently available about the new rule, not much should change for luxury agents and their clients.

“The savviest buyers and sellers have ways to keep their name out of the public,” Chorney said. As long as agents continue to behave with discretion and vet all parties they work with, he said he doesn’t see the new rule as posing a huge risk to his clients’ identities.

A few other agents Inman approached for this story declined to comment since the details on the new rule are still not clear.

FinCEN’s nationwide expansion of the GTOs is also closely related to a bill that was passed in 2020 by the Senate that would ban anonymous shell companies and require them to state their owners. However, that bill has been stalled in the Treasury Department following a request from a bipartisan group of lawmakers to refine the proposal.

The American Land Title Association, which represents title insurers, said that although it approves of FinCEN’s new rule, it should wait to enact the rule until the shell company rule has been finalized.

One of the most recent high-profile instances of money laundering through real estate was conducted by exiled Chinese businessman Guo Wengui, who used an anonymous shell company to channel a profit from a fraud scheme into his $26 million purchase of a New Jersey mansion in December 2021. Had the property been purchased just across state lines into New York, the fraud could have been flagged quickly by a GTO.

Even once the new rule is put into effect, however, FinCEN will face challenges in enforcing it just because of their lack of manpower, David Szakonyi, a political science professor at George Washington University, told *Reuters*.

“FinCEN needs more people and more computers to process the information,” he said.

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