To Our Clients and Friends

Memorandum

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FinCEN Expands Geographic Targeting Orders for Residential Real Estate Deals

On July 27, 2016, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) expanded on the Geographic Targeting Orders (GTOs) issued in January 2016 relating to money laundering concerns in connection with all-cash purchases of high-end residential real estate properties. The new GTOs cover certain real estate purchases in New York, Florida, California, and Texas. They will go into effect on August 28, 2016 and have the same general terms as the GTOs issued in January. This development is further evidence of the increased focus by regulators and law enforcement on money laundering risks in the real estate sector.

As we previously reported, the GTOs issued by FinCEN in January required title insurance companies located in the United States to identify the beneficial owners (or natural persons) behind limited liability companies, partnerships, and other legal entities involved in all-cash residential real estate sales in Manhattan of at least $3 million and in Miami-Dade County of at least $1 million. The GTOs took effect on March 1, 2016 and were to last through August 27, 2016. At the time, we predicted that the GTOs might be extended by location or time. In fact, FinCEN has decided to do both.

In its July 27, 2016 press release, FinCEN praised the efficacy of the January GTOs in helping law enforcement identify possible illicit money laundering activity and informing future regulatory approaches. FinCEN noted that a "significant portion" of transactions covered by the January GTOs have indicated possible criminal activity associated with the individuals reported to be the beneficial owners behind shell company purchasers for these types of transactions. These findings appear to corroborate FinCEN's initial concerns that these types of transactions are specifically high-risk for money laundering violations.

Accordingly, FinCEN is expanding the GTOs for all-cash transactions in residential real estate sales to cover additional regions in New York City, Florida, California, and Texas. The specific covered jurisdictions, along with the sales price threshold for each area, are shown in the following table:

Monetary Thresholds by Geographical Area	
Jurisdiction	**Price Threshold**
New York	
Manhattan	$3,000,000
Brooklyn, Queens, The Bronx, and Staten Island	$1,500,000

Monetary Thresholds by Geographical Area	
Jurisdiction	**Price Threshold**
Florida	
Miami-Dade County, Broward County, and Palm Beach County	$1,000,000
California	
San Diego County, Los Angeles County, San Francisco County, San Mateo County, and Santa Clara County	$2,000,000
Texas	
Bexar County (San Antonio)	$500,000

These GTOs take effect on August 28, 2016 and will last for 180 days (through February 23, 2017). In practice, they also extend the validity of the original 180-day January GTOs, since FinCEN is re-issuing the Manhattan and Miami-Dade GTOs at this time. The terms of the new GTOs remain the same as the January GTOs, as shown in the sample GTO provided by FinCEN.

FinCEN's actions come amid a time of increased scrutiny of the role of high-priced U.S. real estate in international money laundering. For example, on July 20, 2016, the U.S. Department of Justice filed civil forfeiture complaints related to more than $1 billion in assets allegedly associated with an international conspiracy to launder funds misappropriated from 1MDB, the Malaysian sovereign wealth fund.[1] The forfeiture complaints identify multi-million dollar properties in New York and Los Angeles as real estate being used as a safe haven for the embezzled funds.[2] Similarly, the *Miami Herald* noted that the Panama Papers, a leaked trove of documents from Panamanian law firm Mossack Fonseca detailing information on hundreds of thousands of offshore entities, show evidence that offshore shell companies are investing funds in Miami real estate on behalf of individuals who have been separately investigated or convicted of money laundering-related offenses.[3]

These orders indicate that FinCEN continues to implement the tools at its disposal to target money laundering, as well as to increase scrutiny of high-priced real estate transactions more generally. Since the January GTOs have already resulted in useful information for FinCEN, it is possible that increased regulatory or criminal enforcement actions may be next. Finally, depending on the results of these GTOs, it is also possible that FinCEN and other regulators may further expand anti-money laundering compliance requirements in the real estate sector.

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1 U.S. Dep't of Justice, *United States Seeks to Recover More Than $1 Billion Obtained from Corruption Involving Malaysian Sovereign Wealth Fund* (July 20, 2016).

2 Louise Story, *U.S. Targets $1 Billion in Assets in Malaysian Embezzlement Case*, N.Y. TIMES, July 20, 2016.

3 Nicholas Nehamas, *How Secret Offshore Money Helps Fuel Miami's Luxury Real-estate Boom*, MIAMI HERALD, Apr. 3, 2016. The full series of articles from the Miami Herald's coverage of this issue is available at http://www.miamiherald.com/news/local/article70347537.html.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its contents. If you have any questions about the contents of this memorandum, please call your regular Fried Frank contact or an attorney listed below:

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