



February 4, 2016

New Disclosures Required in High-End Residential Real Estate Transactions in Manhattan and Miami

The Financial Crimes Enforcement Network (FinCen) of the U.S. Treasury Department has established a temporary program that requires new disclosures by title insurance companies. The program is part of FinCen's effort to gather data that will assist law enforcement agencies in combating money laundering in cities where high-end real estate acquisitions have become increasingly common. Under this program, title insurance companies must disclose the identities of the individuals behind shell companies (including limited liability companies, corporations and partnerships) that buy high-end residential properties (1 to 4 family dwellings or condominium units) in Manhattan and Miami-Dade County without lender financing. Note that these requirements apply only to purchases in Manhattan and Miami-Dade County. They do not apply to purchases in New York outside Manhattan or to purchases in Florida outside Miami-Dade County. The program is currently scheduled to run from March 1, 2016, to August 27, 2016, as part of a 180-day trial period. This period may be extended by further legislation.

Which Transactions Are Covered

In Manhattan, the initiative requires the reporting of the identities of the beneficial owners of the equity interests in the purchasing entities in "all cash" sales of more than US\$3 million. In Miami-Dade County, the identities of the beneficial owners must be reported on "all cash" sales of more than US\$1 million. Note that only transactions that do not involve any bank financing are covered. Furthermore, this reporting requirement applies only when a portion of the purchase price is paid by currency or monetary instrument, which includes cashier's check, certified check, traveler's check or money order. The reporting requirement does *not apply* if the purchase price is paid entirely by wire transfer.

Who Must Report and What Must Be Reported

The title insurance company that is involved in each of the covered transactions must disclose the identities of the individuals who are the ultimate beneficial owners or holders of 25% or more of the direct or indirect equity or beneficial interests in the purchasing entity for all covered transactions. There is no reporting requirement for those transactions in which title insurance companies are not involved.

How to Comply with the Reporting Requirement

Within 30 days of the closing of a real estate transaction for which the reporting requirement applies, title insurance companies must complete the FinCen FORM 8300 through the *Bank Secrecy Act* e-filing system (available [online](#)). FinCen will store this information in an internal database not available to the public. FinCen has stated that this database cannot be accessed

through public sources and will be made available only to law enforcement agencies. The collection of this information will be exempt from the *Freedom of Information Act*, which, without an exemption, allows for the full or partial disclosure of previously unreleased information and documents controlled by the U.S. government.

Those contemplating purchases of residential properties in Manhattan and Miami-Dade County that meet the criteria described above should take these new reporting requirements into consideration. However, even if privacy considerations are paramount, these reporting requirements should not be a significant concern since the identities of the beneficial owners will not appear in any public records or databases.

If you have any questions regarding the foregoing, please contact [Harry Heching](#) (212.588.5599) or [Chaim Zelinger](#) (212.588.5509) in our New York office.

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