

President
John T. Updegraff, Jr.



Executive Vice President & CEO
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Global Investigations Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

Re: Docket Number FinCEN-2021-0007; 1506-AB54: Proposed Anti-Money Laundering Regulations for Real Estate Transactions.

To Whom It May Concern:

I am writing on behalf of the Texas Land Title Association (TLTA). Founded in 1908, TLTA is a statewide trade association representing the Texas title insurance industry and currently serving over 15,000 professionals involved in the safe and efficient transfer of real estate. With active members in virtually every county in Texas, TLTA membership comprises over 85 percent of all title insurance agents and underwriters licensed to do business in Texas.

We appreciate the opportunity to comment on the Advanced Notice of Proposed Rulemaking (ANPRM) that seeks input into new proposed money laundering regulations regarding real estate transactions.

Beginning in 2016, FinCEN has imposed specific transaction reporting requirements on title insurance companies in the form of time-limited Geographic Targeting Orders (GTO). Three major counties in metropolitan areas of Texas are presently subject to GTOs issued by FinCEN. For title companies, complying with the GTOs can be costly and time consuming, requiring investigation and research beyond the public records. And, for legitimate consumers/purchasers, the process can delay their transactions.

FinCEN should be aware that, according to the Census Bureau, nearly 66 percent of title companies have five or fewer employees and 94 percent have fewer than 20 employees. We, therefore, have concerns with additional regulatory burdens placed on our industry, particularly if imposed in each of the 254 counties in Texas.

As you move forward, TLTA has several recommendations:

- We are very concerned about the burdensome impact of additional money laundering regulations being imposed on the title industry and on consumers in all residential and commercial real estate transactions. Should FinCEN go in this direction, we think a reasonable threshold should be considered to shield small transactions. In addition, we think FinCEN should consider a cap to exclude large commercial transactions,

which are not likely to be the target for money laundering. The Texas GTOs currently have a \$300,000 threshold, which is approximately the median home price in Texas.

We would recommend that Bank Secrecy Act-like requirements for financial institutions *not* be imposed on the title industry, rather any new regulations should be tailored and simplified to lessen the burdens they will impose on small businesses. Additionally, many of our customers are concerned about privacy. Our industry has been the target of several forms of cyber-attacks targeting consumer information. So, we are a cautious industry in the collecting, handling, and storage of non-public personal and financial information and its reporting to governmental agencies.

- Like our national counterpart, the American Land Title Association, we believe that any new rules should also be in tandem with new regulations pursuant to the Corporate Transparency Act (CTA), which became law in 2021. A new compliance regime for CTA, and any additional money laundering regulations, should come into place as one to provide a smoother compliance process. We would hope that new CTA rules would reduce the cost to title companies to conduct duplicative due diligence on consumers and instead rely on the validity of new FinCEN regulations.
- We urge the federal government to look at other sources, like Suspicious Activity Reports (SAR), as a means of gathering the information it needs to combat money laundering, rather than imposing new requirements on small businesses that increase burdens.
- We ask if the present GTOs have produced the criminal prosecutions envisioned by FinCEN to support tasking small businesses with additional costly and time consuming investigative and compliance duties, the costs of which would be shared by consumers.
- Finally, communicate to our industry what specific methods of terrorism financing or money laundering the government is targeting. Our industry's increased understanding of the methods being targeted would help us be of greater assistance in the fight against transactions that violate existing anti-money laundering statutes.

Thank you for your consideration of these views.

Sincerely,



John T. Updegraff, Jr.
President