



February 18, 2022

Mr. Him Das, Acting Director  
Financial Crimes Enforcement Network  
U.S. Department of the Treasury  
P.O. Box 39 Vienna, VA 22183

Submitted electronically via <http://www.regulations.gov>

RE: Anti-Money Laundering Regulations for Real Estate Transactions  
Docket #: FINCEN-2021-0007; RIN: 1506-AB54; Document #: 2021-26549

This letter responds to the request by the Financial Crimes Enforcement Network (FinCEN) of the United States (U.S.) Department of the Treasury (Treasury) for comment on an advanced notice of proposed rulemaking (ANPR) regarding potential anti-money laundering regulations for real estate transactions under the Bank Secrecy Act.

As a group of organizations advocating for affordable, accessible, and safe housing for all Americans, we are keenly aware of the impacts of real estate ownership opacity and the effect that money laundering through real estate can have on housing markets. Hard working Americans shouldn't be competing with money launderers and criminals for scarce housing.

The lead sponsor of this letter, the California Reinvestment Coalition (CRC), works to build "an inclusive and fair economy that meets the needs of communities of color and low-income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner." The CRC works to reform government, financial institutions, and investor policy and practice to address California's displacement crisis. Primarily affecting residents of color and low-income residents, the displacement crisis means many people can no longer afford to live in the communities they have been part of for a long time. Landlords, often hiding their true identities, can use loopholes to evict tenants.

This letter also has the support of **12 additional** housing, consumer protections, economic and racial justice organizations. We are encouraged by the growing interest of advocates, and now the Biden Administration, to address the scourge of money laundering in the real estate sector as well as the commitment announced in the U.S. Strategy to Counter Corruption to promulgate "regulations targeting those closest to real estate transactions to reveal when real estate is used to hide ill-gotten cash or to launder criminal proceeds."<sup>1</sup> Such regulations will have important and positive foreign and domestic policy impacts.

We fully agree that money laundering "negatively impacts average citizens in the United States, tilting the economic playing field against working Americans, enabling criminals to flourish and foreign adversaries to subversively peddle their influence, perpetuating growth-dampening inequality, and *contributing to pricing out families from home ownership through real estate purchases.*"

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<sup>1</sup> U.S. Strategy on Countering Corruption, December 2021. <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>



In addition to problems of money laundering in real estate purchases created by ownership opacity, such opacity often allows landlords to evade accountability for poor housing conditions. With owners of property hiding behind webs of LLCs, tenants as well as local governments find it very difficult to hold the real owners accountable for poor living conditions.<sup>2</sup>

### **The Current Approach to Addressing Real Estate-Based Money Laundering Has Many Weaknesses**

A recent report by Global Financial Integrity (GFI), “Acres of Money Laundering”, found that more than US\$2.3 billion was laundered through U.S. real estate in cases reported between 2015 and 2020.<sup>3</sup> Eighty-two percent of those cases involved foreign sources of money.

The current U.S. regulatory approach of using temporary information collection in only a few real estate markets in the U.S., Geographic Targeting Orders (GTOs), has many shortcomings that should be addressed when creating a nation-wide and permanent regime. These shortcomings include:

1. The temporary and unpredictable nature of the GTOs, which complicates compliance by the responsible reporting industry and deters investments to strengthen and automate reporting;
2. The limited geographic reach of the GTOs. Covering real estate money laundering risks in San Francisco while ignoring Silicon Valley or Oakland makes no sense. does not adequately address the scope of the money laundering risks that exist across the U.S.;
3. The current GTO threshold of US\$300,000 is arbitrary and ignores the fact that money laundering schemes can occur through the purchase of purchase and sale of multiple properties with lower values.
4. The GTOs are limited in focus by applying only to all-cash purchases made by specific legal vehicles, and only requiring the beneficial ownership information of the buying entity. This limited approach and information requested ignores other real estate money laundering risks such as the use of trusts, the use of natural persons as third parties, typologies such as overvaluation and undervaluation, and schemes initiated by the seller.
- 5.

### **Recommendations to Inform Future FinCEN Rulemaking**

Given the weaknesses of the current approach and the scale of the problem, we therefore welcome the readiness of FinCEN to issue a nationwide and permanent rulemaking that provides more transparency in the real estate sector.

The most adequate way to address the problem of real estate money laundering would be to promulgate general and traditional Anti-Money Laundering (AML) requirements, including Customer Due Diligence (CDD) and the filing of Suspicious Activity Reports (SARS) on persons involved in real estate transactions. If FinCEN chooses to instead

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<sup>2</sup> Alexander Ferrer, *Beyond Wall Street: Landlords How Private Equity in the Rental Market Makes Housing Unaffordable, Unstable, and Unhealthy*, Strategic Actions for a Just Economy, 2021. [https://www.saje.net/wp-content/uploads/2021/03/Final\\_A-Just-Recovery-Series\\_Beyond\\_Wall\\_Street.pdf](https://www.saje.net/wp-content/uploads/2021/03/Final_A-Just-Recovery-Series_Beyond_Wall_Street.pdf)

<sup>3</sup> Acres of Money Laundering, Global Financial Integrity, August 2021. <https://gfintegrity.org/report/acres-of-money-laundering-why-u-s-real-estate-is-a-kleptocrats-dream/>



California  
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propose a specific reporting requirement that would be similar to but an expansion of the GTO requirements it should at a minimum propose a rule that includes the following elements:

1. A permanent and nationwide reporting regime.
2. No monetary reporting threshold for transactions.
3. Application to both residential and commercial real estate, either as part of one rule or two separate rules.
4. Reporting obligations to multiple real estate professionals, including title and escrow companies and agents, real estate agents and brokers, and real estate attorneys to ensure that a reporting requirement falls on at least one entity in each real estate transaction.
5. Reporting obligations for legal entities and natural persons.
6. Beneficial owner information for both the buyer and seller as well as information on the source of funds, identification of Politically Exposed Persons (PEPs), and other key pieces of information of the transaction.

For further information on how FinCEN should develop draft regulations to address real estate-based money laundering, we would invite you to review the response by Global Financial Integrity to this ANPRM.

Finally, in addition to supporting federal action to address real estate ownership opacity, the signatories of this letter strongly support legislation being considered in the California Legislature, AB889 (Gipson) that would require the California Secretary of State (SOS) to collect and publish the beneficiary owner of all corporations in the business of renting property in the state. Assessor's offices and tenant counsels regularly use SOS information for their respective purposes. We believe that action by FinCEN at the federal level would be a powerful complement to action currently being considered by the California Assembly.

We would like to commend you once again for your work to increase ownership transparency in U.S. real estate and appreciate the opportunity to comment. It is critical that deliberate but timely manner to address an issue that impacts access to basic consumer rights and much-needed affordable housing for Americans across the nation. Should you have any questions regarding this comment, please contact Jyotswaroop Bawa, Chief of Organizing and Campaigns, California Reinvestment Coalition, at [jbawa@calreinvest.org](mailto:jbawa@calreinvest.org).

Sincerely,

California Reinvestment Coalition, and

- o East Los Angeles Community Corporation
- o Housing Rights Committee of San Francisco
- o Alliance of Californians for Community Empowerment
- o California Coalition for Rural Housing
- o KIWA (Koreatown Immigrant Workers Alliance)
- o Public Law Center
- o SAJE (Strategic Actions for a Just Economy)
- o Little Tokyo Service Center
- o Tenants Together
- o Thai Community Development Center
- o Faith and Community Empowerment (formerly KCCD)
- o Fair Housing Council of the San Fernando Valley