



Are You Within Reach of Anti-Money Laundering Enforcement?

*Tentacles of Money Laundering Schemes
Affect Real Estate Investors Worldwide*

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The U.S. Treasury Department has signaled the latest focus of its enforcement: real estate ventures with ties to money laundering schemes. Individual real estate investors and companies involved in luxury real estate, real estate development or investment, property management, and escrow or mortgage services around the globe should heed Treasury's warnings.

Which Real Estate Markets are Targets?

Several real estate markets in the United States and abroad are ripe for Treasury's picking. In January 2016, the Treasury Department, Financial Crimes Enforcement Network (FinCEN) issued Geographic Targeting Orders for Manhattan, New York and Miami-Dade County, Florida. Reportedly nearly one in three apartments in midtown Manhattan is unoccupied for at least ten months each year.

The orders seek to create transparency of investments in the areas by requiring certain U.S. title insurance companies to identify all cash buyers of high-end real estate in those markets. Specifically, the orders require identification of the true beneficial owners behind shell companies that pay for high-end real estate in all cash. The orders will expire in August 2016. Nevertheless, a senior Federal Bureau of Investigation official stated that the orders may be extended in time and expanded geographically.

We suspect such an expansion would next target San Francisco and Honolulu in the United States and, abroad, Vancouver, Hong Kong, Shanghai, Singapore, Dubai, London, Paris, and Melbourne. Those cities are reportedly home to similar investments situations and, the empty homes that are their hallmark.

Which Investors?

We find not only real estate investors, but businesses related to real estate investment, should be wary of the warning signs from Treasury. As seen in the still settling dust of the Panama Papers aftermath, the tendrils of deep-rooted money-laundering systems reach farther than one might expect. The Panama Papers, leaked from the law firm Mossack Fonseca, unveiled a laundry list of individuals and entities subject to potential liability for tax evasion and money laundering. The effects of that exposure have reportedly cost companies named in the papers approximately \$230 billion in market share.

In a subsequent strike, the Treasury Department, Office of Foreign Assets Control (OFAC) added Waked Money Laundering Operation (Waked MLO), several of its leaders, and 68 companies tied to the organization to the List of Specially Designated Nationals (SDN List) pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act). OFAC alleged Waked MLO is an international money laundering network that uses trade-based methods and real estate development to support drug traffickers and their organizations.

Only two of the individuals sanctioned related to Waked MLO activities had ties to Mossack Fonesca. So it appears that Treasury's anti-money

laundering enforcement push may draw force from the Panama Papers, but it will not be limited to that much-publicized list.

What Type of Enforcement?

Although OFAC is also involved, FinCEN is the primary enforcer of money laundering controls. FinCEN continues its robust enforcement against money laundering under the Bank Secrecy Act (BSA) and the USA PATRIOT Act. It appears that those two arms of Treasury are working in tandem as OFAC has been exercising its unique authority to sanction individuals for money-laundering related offenses. Earlier this year, we saw OFAC's designations of individuals lead to arrests of Hizballah money launderers.

Beyond Treasury's efforts, we see the U.S. Supreme Court weighing the Second Circuit's finding that the Racketeer Influence and Corrupt Organizations Act (RICO) provides for an indictment based on money-laundering conduct that took place outside of the United States.[1]

Solutions

As a result of the increased enforcement activities discussed above, luxury real estate firms, related businesses, and individual investors in real estate should flag money laundering risks as a top priority for the remainder of 2016.

In order to remain compliant, companies should crosscheck the names of the recently sanctioned individuals and entities to identify and address any interactions with those parties. For any company, a robust anti-money laundering compliance program is also a must. A strong anti-money laundering policy with know your customer steps and a reasonable level of customer diligence review could make all the difference for a company or

individual to avoid joining Waked MLO and its associates on OFAC's SDN list or falling under FinCEN enforcement.

[1] That case is European Community v. RJR Nabisco Inc., case number 15-138.

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