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NATIONAL ASSOCIATION of REALTORS®
Official Designation

CIPS
certified international property specialist

GLOBAL PERSPECTIVES

to Local, International & Lifestyle Real Estate

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REDUCING RISKS

Reducing Risks

Every business faces risk. Some, like a sudden economic downturn, are outside your control. Many other risks are entirely avoidable.

As a real estate professional, risk management includes a wide variety of concerns. Here are just a few ways agents can get into trouble:

- Giving advice outside your area of expertise
- Overlooking mandatory disclosures
- Failing to protect clients' interests
- Offering opinions instead of material facts
- Accepting unearned gifts
- Including or omitting certain information in your ads

For U.S. agents, various state and national laws, as well as the REALTOR® Code the Ethics, speak to each of these offenses. The consequences of violations are substantial, including damaged reputations, fines, legal actions, or even, in extreme cases, imprisonment.

"I didn't know," is never an adequate excuse.

CIPS designees dealing in international transactions face additional risk management considerations.

Regardless of how your transaction crosses borders—whether you're helping an international client with a domestic transaction or helping a domestic client in an international transaction—your due diligence checklist must include an expanded set of factors.

This issue of *Global Perspectives* examines several areas of concern, including reminders of topics covered in the CIPS designation coursework as well as updates to pertinent regulations.

"I didn't know,"

is never an adequate excuse.

Global Real Estate Practices

It's an exciting time to be a CIPS designee! The global real estate market continues to expand, offering new opportunities to agents with the knowledge and resources that come with the pin.

Expanded opportunities also imply expanded responsibilities. As you know, every market operates under different conventions and requirements. Before venturing beyond your borders, observe these critical steps:

1. Know the laws.

Learn the specific requirements for participating in a real estate transaction in another country. For starters, consult these resources:

Real Estate Practices Around the World – A convenient summary of general guidelines in 35 countries. **www.nar.realtor/global/real-estate-practices-around-the-world**

Global Alliances Directory – Consult the appropriate Cooperating Association for additional country-specific details. **www. nar.realtor/intlnet.nsf**

Don't assume that the absence of a regulated real estate industry reduces your risks. Ask yourself:

— Are there business licensing requirements (beyond real estate laws) that govern your activities?

— Have you identified qualified tax and immigration specialists, so your clients can seek their advice on tax laws, visas, residency requirements, and other related matters?

— Does your E&O insurance policy cover your activities in another country?

These are just a few ways you could do your clients a disservice and potentially expose yourself to risk if you aren't fully informed or working with a local CIPS or an International REALTOR® Member (IRM) agent in that country.

2. Get connected.

To ensure you aren't violating any laws or regulations, work with representatives of the appropriate Cooperating Association and/or agents in that country. Frequently, co-marketing or co-brokering relationships are best. CIPS designees are located around the world and include U.S. agents specializing in specific countries as well as IRMs working in their home countries. To find them:

Use the CIPS Directory at **www.nar.realtor/cips-search.**[1]

Connect on Facebook via the Official Group: NAR CIPS Designees.

Attend major networking events, like the REALTORS® Conference & Expo.

3. Remember the Code.

No matter where you practice real estate, REALTORS® are expected to abide by a Code of Ethics. In the United States, it is the REALTOR® Code of Ethics. Outside the U.S., it is the compatible code of ethics as agreed to per the bilateral partnership.

If a country ***does*** have licensing laws and you are not licensed in that specific jurisdiction, you could be breaking another country's laws ***in addition*** to violating the NAR Code of Ethics.

While NAR's core purpose is helping its members become more profitable and successful, it also serves as a leader in promoting ethical real estate business practices.

Ultimately, real estate success and ethical practices go hand in hand—a strongly-shared conviction among CIPS designees, the most trusted resource for navigating the global real estate market.

Access all of your benefits in one convenient location.

printingstorefront.com/narglobal
Login with your NRDS ID number (enter it twice - user name and password)

CIPS
certified international property specialist

Questions?
cips@realtors.org
or 312-329-8320

[1]*To search for an IRM, go to Find a REALTOR® on* ***www.nar.realtor*** *and select a country.*

Anti-Money Laundering Update

Real estate money laundering continues to be a growing concern among governments around the world. By some estimates, the problem has reached $1.6 trillion a year globally.

While financial institutions are on the front lines of efforts to combat criminals and terrorist organizations engaged in money laundering schemes, real estate professionals are increasingly called upon to support the battle.

In the U.K., for example, regulations enacted in 2017 require real estate agents to carry out due diligence on their customers, including identifying the beneficial owners of shell companies, ***before*** entering into a business relationship with them, as well as monitoring buyer/seller activities throughout the transaction.

In the U.S., the Financial Crimes Enforcement Network (FinCEN) is one of the U.S. Treasury's leading agencies in the fight against money laundering and the financing of terrorism.

While real estate firms and professionals engaged in brokerage or property management activities are not required to implement formal anti-money laundering programs like regulated financial institutions, Treasury has the ability to expand coverage of these requirements.

NAR works closely with FinCEN to support its efforts combating money laundering while also defending against unnecessary or duplicative regulation on the real estate industry.

U.S. Geographic Targeting Orders

Starting in 2016, FinCEN began imposing data collection and reporting requirements upon title companies for certain all-cash high-end purchases via shell companies in Manhattan, New York and Miami-Dade County, Florida under Geographic Targeting Orders (GTOs).

Subsequently, FinCEN has repeatedly extended and expanded the GTOs, with the latest requirements lowering the reporting thresholds and requiring reporting in counties in nine different states.

The latest extension became effective last November and is set to conclude on May 15, 2019. It is expected the GTOs will be extended again at that time and potentially expanded to more jurisdictions.

What's New?

FinCEN's most recent targeting orders are notable in three key areas:

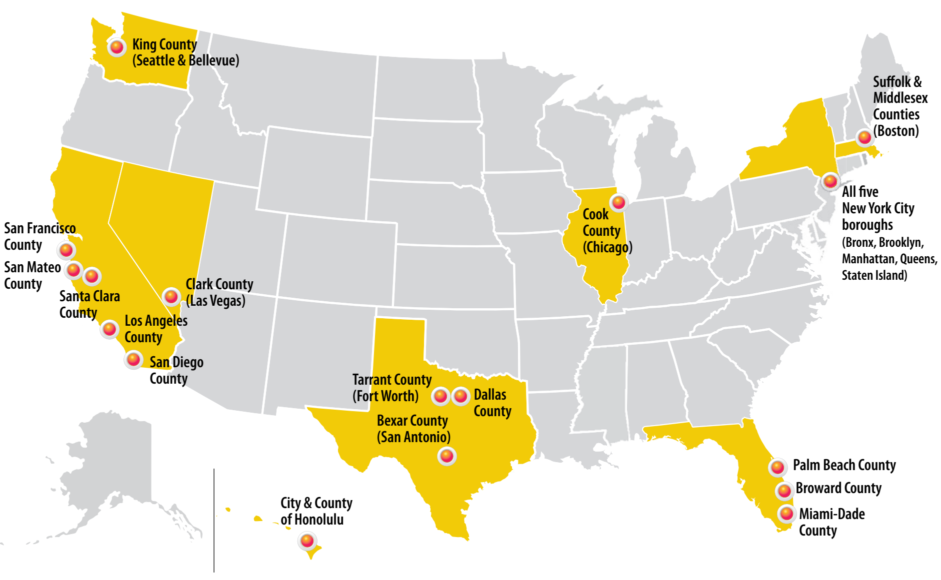
1. **No longer limited to high-end transactions.** Threshold lowered to $300,000 for all jurisdictions.

2. **Broader geographic coverage.** Twelve areas now included in the targeting order. (*See map*)

3. **Virtual currencies.** All-cash payments[2] now include non-traditional virtual currency sources.

[2] *Such as currency, checks, money orders, and wire transfers.*

U.S. Markets Impacted by FinCEN's Targeting Order



Qualifying Purchases

FinCEN's current GTO applies to transactions meeting these conditions:

What: Residential real estate

Who: Purchased by a legal entity (i.e., corporation, LLC, partnership)

Amount: $300,000+

Where: Designated metropolitan areas in nine states (*See map on page 4.)*

How: Purchased without external financing

When: Title companies must report beneficial ownership information within 30 days of closing

Join the Fight

Real estate money laundering can manifest itself in any market around the world. In the U.S., such financial crimes are not limited to the areas covered by FinCEN's GTOs. Therefore, every real estate professional should assist their respective law enforcement agencies and financial institutions to keep criminal activity out of the real estate market.

Potential Red Flags

Know the warning signs. The presence of one or more of the following risk factors does not automatically translate into money laundering. Exercise sound judgment and take proper action if you spot substantial red flags:

Geographic Risk[3]

Buyer or funds are coming from a jurisdiction with:

— Weak anti-money laundering systems
— Support for terrorism
— Significant political corruption

Customer Risk

— Considerable, unexplained distance between buyer and property
— Unusual third-party involvement
— Use of shell corporations to hide identity
— High-ranking foreign political official/family

Transaction Risk

— Under- or over-valued properties
— Use of large amounts of cash
— Purchase is inconsistent with buyer's means
— Immediate resale of the property
— Speed of transaction (without reasonable explanation)
— Unusual source of funding
— No interest in property details or viewing the property

[3]*Risky jurisdictions appear in the U.S. Treasury Department's Office of Foreign Asset Control (OFAC) list of Specially Designated Nationals and Blocked Persons, also called the SDN List.*

Taking Action

Your obligation to report suspicious activities varies by jurisdiction. Consult your managing broker and an attorney before proceeding.

U.S. agents have two options:

- File a suspicious activity report using FinCEN's Bank Secrecy Act (BSA) e-filing system at **bsaefiling.fincen.treas.gov/main.html**. Call 800-949-2732 for assistance.
- Report your concerns to local law enforcement or the Federal Bureau of Investigations (FBI).

Form 8300

Note that U.S. real estate agents are also obligated to file a Form 8300 with the Internal Revenue Service (IRS) if they receive more than $10,000 in cash in the course of a single transaction or two or more related transactions.

Learn More

The best way to combat money laundering schemes is to learn more about the issue and your obligations as real estate professionals. NAR provides numerous resources for U.S.-based members at **www.nar.realtor/money-laundering-and-terrorism-financing**.

Data Security

Cybercriminals keep getting better at what they do, making it increasingly essential for real estate professionals to view data security as a serious threat that demands serious attention.

From compromised email accounts and weak passwords to unsecured networks and lost or stolen devices, there are many ways personal and client data can be compromised. Are you doing enough to reduce vulnerabilities?

Protecting Clients

The REALTOR® Code of Ethics explicitly acknowledges members' obligation to preserve the confidentiality of personal information provided by clients in the course of any agency or non-agency relationship—an obligation that continues after the termination of business relationships.

The U.S. Federal Trade Commission (FTC) recommends developing a data privacy program built upon five core principles:

1. Take stock.
Know what personal information is in your files and on your computers.

2. Scale down.
Only keep what you need for legitimate business purposes and to comply with the law.

3. Lock it.
Protect the information you keep.

4. Pitch it.
Safely dispose of what you no longer need.

5. Plan ahead.
Create a comprehensive data security plan and a data breach response plan.

Cyber E&O Insurance

For additional protection, consider adding cyber liability or a data breach policy to your current risk management safeguards.

Wire Fraud

In terms of sophistication, real estate wire fraud relies on one of the oldest tricks in a cybercriminal's toolkit—a fake email message. The tactic, however, remains effective in convincing clients to transfer their closing funds to a hacker's offshore account.

Preventing wire fraud starts with alerting your clients to the scam, so they understand the importance of confirming all wire transfer instructions via person-to-person phone calls with reliable sources.

It's also essential to protect your email accounts! Even if your clients are savvy enough to spot a fake message from "you," do you want to explain that your account was hacked? It's embarrassing and can lead clients to legitimately question whether their confidential data is safe.

Dig Deeper

NAR offers many excellent ways to learn the ins and outs of maintaining data security and preventing wire fraud, including:

e-PRO® Certification Course
Features updated content with a two-pronged focus: protecting customers from a data breach and maximizing your online presence.
epronar.com

Commitment to Excellence (C2EX)
Empowers REALTORS® to conduct their business at the highest standards of professionalism on multiple dimensions, including data privacy and security.
www.nar.realtor/commitment-to-excellence

NAR's Data Privacy & Security Resources
Legal updates, tools, additional educational resources, and more.
www.nar.realtor/data-privacy-security

For additional details

on these steps, review NAR's Data Security and Privacy Toolkit at
www.nar.realtor/data-privacy-security/nars-data-security-and-privacy-toolkit.

3 FAQs on TAXES

Even though you should never give clients tax advice, it's important to understand how your international clients will be impacted by tax laws—and to ensure you are complying with tax-related obligations that extend to real estate professionals.

Here are three frequently-asked questions concerning the U.S. tax system.

Q Do foreign owners of U.S. property face the same tax consequences as U.S. citizens?

A Capital gains taxes generally apply to anyone who sells U.S. property. To ensure non-U.S. citizens comply with U.S. tax laws, the Foreign Investment in Real Property Tax Act (FIRPTA) requires buyers to withhold part of the sales proceeds and submit them to the IRS in certain circumstances.

While FIRPTA has been in place since 1980, significant changes were added in 2016 with the passage of the Protecting Americans from Tax Hikes Act (PATH Act). The new provisions increased the withholding rate from 10 to 15 percent, ***except*** for sales of residences for personal use under $1 million.

Agents for the buyer and seller both have important obligations to comply with FIRPTA rules. For details on your requirements under the current provisions, view NAR's webinar at **bit.ly/NAR-FIRPTA**.

Q How did the PATH Act impact U.S. commercial real estate?

A Starting in 2016, commercial properties (at any price) became subject to the 15 percent withholding rate. While foreign investors were not happy to face higher withholding rates, two other modifications to the FIRPTA rules in the PATH Act provided substantial benefits:

- The maximum amount of stock ownership by a foreign investor in a U.S. publicly-traded real estate investment trust (REIT) was doubled, from 5 to 10 percent.
- The new law also permits certain foreign pension funds to invest in REITs without being subject to FIRPTA.

Q Do 1031 tax-deferred exchanges only apply to U.S. citizens?

A No! Foreign individuals (non-U.S. citizens and nonresident aliens) and foreign companies who own U.S. property for income or investment purposes can also take advantage of 1031 tax-deferred exchanges.

To qualify, both the exchanged and relinquished property must be located in the U.S., which includes all 50 states, the District of Columbia, and the U.S. Virgin Islands.

It's essential to engage tax specialists, including a qualified intermediary, for assistance in properly setting up these transactions, which can be extremely complex.

FIRPTA Withholding Rules for Residential Sales

Sales Price	Buyer's Use of the Property	Withholding Rate
$300,000 or less	Residence	0
$300,000 to $1M	Residence	10%
$1M+	N/A	15%

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- CIPS Networking & Pinning Ceremony
- 'Meet the World' speed networking sessions
- International Night Out & Awards ceremony

Registration opens May 1, 2019.

Learn More
at **www.conference.realtor**