



RAPID RESPONSE BRIEF

IMPLICATIONS OF RUSSIA AND BELARUS SANCTIONS ON US REAL ESTATE TRANSACTIONS

The US real estate market has been vulnerable to drug traffickers, money launderers, corrupt officials, and Russian oligarchs. Kleptocrats and criminals hide behind shell companies, using various techniques to purchase luxury homes, including intermediaries, proxy buyers, and all cash transactions.

However, the recent incursion into Ukraine has elevated the urgency of intensifying sanctions by increasing the anti-money laundering response on types of transactions by the Russian elite, officials, and their families.¹

Implications of the Russia and Belarus sanctions

On March 7, and later expanded on March 16, FIN-2022-Alert001 and FIN-2022-Alert002 alerted all covered parties to report suspicious activities on the Russian elite attempting to evade sanctions, primarily by selling luxury homes or assets, or hiding their actual beneficial ownership. As the intensity of political sanctions has increased, there is greater awareness not to facilitate a prohibited real estate transaction.

FIN-2022-Alert001

Executive Order 14024 prohibited certain financial activities, including real estate transactions on sanctioned persons. Therefore, OFAC has intensified monitoring directly or indirectly with any designated Russian elite and their

¹US Department of Treasury, March 11, 2022, Treasury Sanctions Kremlin Elites, Leaders, Oligarchs, and Family for Enabling Putin's War Against Ukraine, <https://home.treasury.gov/news/press-releases/jy0650>

families. Covered persons should use the term "FIN-2022-RUSSIASANCTIONS" in SAR field 2 when suspicious activity related to evasion attempts is suspected.²

The advisory highlighted various red flags associated with sanctions evasion and reporting transactions involving luxury real estate and other high-value assets, including yachts and cars, owned by the Russian elite.³

FinCEN reminded reporting entities to be aware of:

- Transactions using corporate vehicles, such as limited liability companies, to hide beneficial ownership, source of funds, or jurisdictions connected to Russian oligarchs or connected parties (an example is when real estate is registered or transferred to a corporate vehicle)
- International transactions that utilize shell companies and financial institutions located in different jurisdictions to move money discretely
- The use of third parties that shield a sanctioned or politically exposed person from disclosure – which may use gatekeepers in the sale or transfer of assets
- The sudden increased activity of accounts with financial institutions associated with higher risk vulnerabilities, without clear economic or business rationale
- Jurisdictions with known connections with previous Russian financial flows, which may facilitate evasion schemes
- Newly established correspondent banking accounts, including nested accounts or payable-through accounts, that may conceal sanctioned institutions or entities removed from SWIFT
- US persons should be aware of non-routine foreign exchange transactions which may involve the sanctioned person and may appear inconsistent with the previous 12 months

FIN-2022-Alert002

FIN-2022-Alert002 advises increased vigilance in the monitoring of the purchase, sale, or transfer of luxury real estate and goods involving the Russian elite, oligarchs, and their families. It requests that financial institutions insert any suspicious activity into the narrative in SAR field 2, with the keyword "FIN-2022-RUSSIALUXURY".⁴

² FinCEN, March 7, 2022, FinCEN Advises Increased Vigilance for Potential Russian Sanctions Evasion Attempts: FIN-2022-Alert002, p.3, <https://www.fincen.gov/sites/default/files/2022-03/FinCEN%20Alert%20Russian%20Sanctions%20Evasion%20FINAL%20508.pdf>

³ FinCEN, March 7, 2022, FinCEN Advises Increased Vigilance for Potential Russian Sanctions Evasion Attempts: FIN-2022-Alert002, <https://www.fincen.gov/sites/default/files/2022-03/FinCEN%20Alert%20Russian%20Sanctions%20Evasion%20FINAL%20508.pdf>

⁴ FinCEN, March 16, 2022, FinCEN Alert on Real Estate, Luxury Goods, and Other High Value Assets Involving Russian Elites, Oligarchs, and their family members: FIN-2022-Alert002, https://www.fincen.gov/sites/default/files/2022-03/FinCEN%20Alert%20Russian%20Elites%20High%20Value%20Assets_508%20FINAL.pdf

These red flags looked at specific activities related to:

- The purchase, sale, donation, or transfer of luxury real estate involving foreign legal entities, shell companies, or trusts that are above or below fair market value
- Legal entities or arrangements with a connection to a sanctioned Russian elite or their family to conceal ownership or source of funds
- Russian individuals or legal entities moving money with a non-US bank to facilitate a transaction
- The dilution of equitable ownership below thresholds or schemes to dilute ownership
- The maintenance, purchase, or termination of real estate insurance by a person(s) identified as being sanctioned

What are the current US anti-money laundering (AML) requirements on real estate transactions?

FinCEN's approach to money laundering in the real estate market has primarily focused on addressing high-risk activities related to types of transactions, rather than enlarging the scope of covered persons. For example, while real estate agents are exempt because most money laundering scenarios would involve financial institutions, the National Association of Realtors highlights voluntary guidelines of identifying the beneficial owner connected to shell companies, filing Form 8300 on transactions more than US\$10,000, and reporting suspicious activity.⁵

Consequently, the duty of care may fall upon financial institutions, sometimes with title companies or particular settlement agents, as part of the geographic targeting order (GTO),⁶ to understand who they are dealing with as the beneficial owner. There are nine states within specific areas in the current GTO. When applicable, title companies are expected to file a currency transaction report (CTR) with FinCEN, identifying the beneficial owner within 30 days of closing the transactions.⁷ Additional information is required in the CTR filing.

⁵ National Association of Realtors, February 16, 2021, Anti-Money Laundering Voluntary Guidelines for Estate Professionals, p.2. <https://www.narfocus.com/billdatabase/clientfiles/172/4/1695.pdf>

⁶ FinCEN, October 29, 2021, Geographic Targeting Order, https://www.fincen.gov/sites/default/files/shared/REGTO1121_Generic%20Order.pdf

⁷ As noted by the recent FinCEN enforcement actions on A&S World Trading, non-financial businesses located within a GTO, may have reporting and recordkeeping requirements as detailed in - FinCEN, April 1, 2022, "FinCEN Assesses \$275,000 Civil Money Penalty against A&S World Trading for Violating Geographic Targeting Order", <https://www.fincen.gov/news/news-releases/fincen-assesses-275000-civil-money-penalty-against-world-trading-violating>



Figure 1: Current GTO coverage

In November 2021, FinCEN renewed the GTOs through April 29, 2022, requiring title companies to continue collecting and reporting information involving persons engaged in residential real estate transactions above specified thresholds. In addition, financial institutions that may be involved in financing or transactions are still required to report where there is suspicion.

Considerations for Compliance

- In reviewing the available data, multiple Russian oligarchs have direct or indirect real estate assets, typically expensive homes or apartments, located in Colorado, Connecticut, Florida, New York, and Washington, DC. Moreover, many of these assets were purchased using legal entities or proxy buyers.
- Therefore, real estate professionals and AML compliance officers in financial institutions should be cognizant of the OFAC sanctions on Russian persons and take appropriate steps to comply.
- As historically observed, politically exposed persons, such as Russian oligarchs, given the increased scrutiny, may sell assets, transfer assets to third parties and related persons, dilute ownership below the 25% ownership threshold, or disguise beneficial ownership through complex legal arrangements to hide their assets from OFAC freezes.
- Accordingly, the Biden Administration announced Task Force KleptoCapture, an interagency law enforcement task force with international participation, to tackle corruption and sanctions evasion. The Administration aims to close real estate loopholes and address the vulnerability. Look for forthcoming changes in the coming months.

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