

# Title News

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## Breaking into the Import/Export Business

Title agents conducting transactions in this segment must overcome more than finding orders and language barriers; they need to explain to foreign investors the need for title insurance and the functions performed by the various parties.

**C**apturing new business from foreign investors who are shopping for bargain-priced U.S. commercial properties and U.S. investors/businesses acquiring and developing commercial properties in foreign countries may seem daunting to most title agents, but this is an emerging market that can generate substantial income for companies of all sizes.

International buyers, including recent immigrants and temporary visa holders, accounted for about 7 percent of the \$907 billion in U.S. home sales for the 12-month period that ended last March 31, according to the National Association of Realtors. As a sign of the possibilities, a Russian billionaire investor paid \$100 million in March for a 25,000-square-foot French chateau-

style mansion in Los Altos Hills, Calif., marking the highest known price paid for a single-family home in the U.S.

**Bruce Hawley**, senior vice president, senior underwriting counsel and multi-national title services group manager for Stewart National Title Services, said title companies can find foreign customers through U.S. real estate brokers marketing to foreigners, law firms that have offices in foreign countries and other U.S. advisors that cater to foreign investors, according to Hawley. Other avenues to find potential foreign investor clients are at international real estate trade fairs and conferences, local chapters of foreign chambers of commerce and local foreign community/religious groups.

“Large accounting firms have

consultants that focus on this and have people advising foreigners investing in the U.S.,” Hawley said. “You need to float yourself in that circle and you may find some activity. There are companies that are set up to provide advice to foreign investors.”

Title agents interested in developing business in this market should think about the real estate agents they know that might be catering to these types of groups.

“Every community has some large ethnic group,” Hawley said.

### Explain the Process

A major obstacle in tackling this market is explaining the need of title insurance to foreign customers. First, you need to understand their title customs and practices and offer language translation assistance, if needed. A title agent will need to explain the roles of the “usual suspects” in a U.S. real estate transaction, such as the title agent, attorney, notary, etc., and explain how they compare with what they are used to in their countries.

“The big thing, we take it for granted what our business is,” Hawley said. “We know in the U.S. the government doesn’t tell you who owns the real estate, except with a few Torrens systems.”

Foreign investors need to be told the differences between a title abstract, a title report, an opinion of title and a title insurance policy. Basically, you need to make the “value proposition” for title insurance.

“In some countries a title report


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could be a last owner search or an encumbrance search," Hawley said. "You need to get it right the first time as a lot of time and money is wasted when people misunderstand each other because of different meanings."

In other countries, notaries represent something different than they do in the United States.

"In foreign countries, a notary is the combination of an attorney, notary and recorder of land deeds," Hawley said. "They get about 2 percent of the purchase price and are appointed for life. They are the gatekeeper in some countries."

Foreign investors will pay a lot of attention to the notary, so you will need to explain the notary's role in the United States.

Hawley urges title agents to develop electronic and "paper" advertisements and marketing collateral that are tailored to meet the needs of foreign buyers.

"If you are in an area where there is a lot of traffic from one group, you may want to get information translated to that language," he said.

There are several websites, such as Global Edge ([globoledge.co.uk](http://globoledge.co.uk)), preferred by foreign buyers. Global Edge caters to foreign investment.

### Special Concerns

There are several issues when handling U.S. transactions for foreign buyers, including USA PATRIOT Act considerations, the Foreign Investment in Real Property Tax Act (FIRPTA), federal restrictions on sovereign wealth funds, EB-5 Visas (investors fast tracked to permanent green card) and state title and tax laws concerning foreign owners.

A few years ago, Hawley said an Arab fund wanted to buy a large port in New Jersey. The deal nearly went

through before someone raised a red flag. The government stopped the transaction and there are now laws that limit the sale of certain properties to foreign investors.

While foreign investors can provide a revenue stream, there also are potential orders on the export side with people and businesses from the United States looking to invest in other countries.

The top countries drawing attention from the U.S. include the United Kingdom (London), Germany and Canada. Other emerging markets include China, Brazil, India, Mexico and Turkey. Hawley said there was a lot of buzz about these before the market downturn. Brazil draws interest from specific industries such as pension funds and cosmetic companies.

Another group of countries garnering interest is Portugal, Italy, Ireland, Greece and Spain. These countries have weaker economies, but some think there's an opportunity to buy there. What's left of the vacation home segment appears to have shifted to Central American and Caribbean countries



Although Mexico, Canada and China are reported as accounting for a total of 41 percent of international sales, international purchasers come from a wide diversity of countries.

because Americans feel safer there, according to Hawley.

Americans' allure to Mexico has been impacted by several factors. With a lack of home equity in U.S. homes, transactions in former hot spots such as Cabo and Acapulco have stopped. Fear of drug wars and hassles to get through customs also have diverted attention elsewhere.

Among commercial transactions, U.S. investors are commonly interested in buying multi-family properties, followed by office industrial, retail and hotel properties, according to the Association of Foreign Investors in Real Estate (AFIRE). On the residential side, U.S. investors aim to purchase vacation homes (full/fractional/timeshare ownership) and retirement homes.

"There are several resources available to help you handle your customers' foreign real estate transactions," Hawley said. "Agents should work with their underwriter to develop and handle this business. You can also work with other title agents in other countries."

International law firms may also serve as a resource as a title agency may work with a local law firm that has an international contact in another country.

### Overcoming Challenges

Title companies that successfully close deals in the import/export segment have overcome several challenges to selling title insurance in foreign countries. First, title companies integrate with local closing procedures, utilize automated products and procedures and employ attorney networks.

Selling title insurance in foreign countries can prove daunting as locals are unfamiliar with the product and concept as there was

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## Foreign Investors Lick Chops over U.S.

The import/export business is a segment with great opportunity as foreign investors overwhelmingly rank the U.S. commercial real estate market as their No. 1 choice for investment in 2011, viewing it as the best opportunity for price appreciation, according to a survey of foreign real estate investors.

When ranked among countries targeted for real estate investment in 2011, the United States drew four times as many votes as the second-ranked Britain, according to an annual survey by the Association of Foreign Investors in Real Estate (AFIRE).

About 65 percent of the survey respondents said the United States offered the best opportunity for price appreciation, far outstripping the 10 percent who ranked China as No. 2. During the overheated market in 2006, only 23 percent put the United States as No. 1.

About 72 percent of the respondents said they plan to increase investment in the United States in 2011.

Among the top cities favored by foreign investors, New York and Washington scored almost four times higher than third place Boston.

needed up front and it will take longer.”

In a Title Registry system, properties are indexed according to description of the property, attorneys provide a legal opinion of title and a registry provides proof of recorded title. In some countries, a government indemnity fund exists in case of error by registry. But in many cases there is no fund to pay for mistakes or provide defense. Notaries generally have no legal responsibility to “indemnify” a party in the event of a loss due to a title defect. This is another reason to provide title insurance.

As in the United States, there are many benefits to having title insurance on international deals. First, it assumes risk and provides protection against the unexpected. By resolving title matters prior to closing and allowing investors to focus on the deal, the legal certainty of the deal is increased, the investment process is streamlined and closing delays are eliminated.

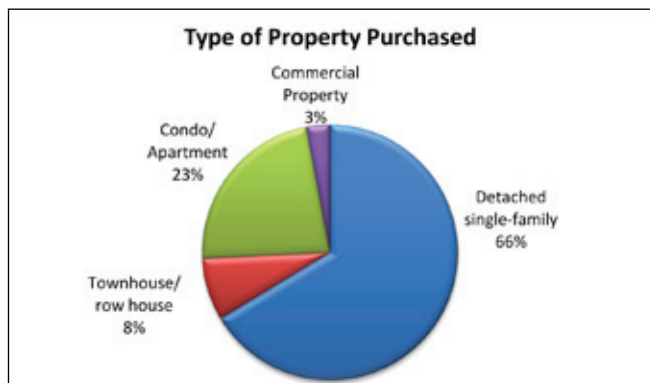
“Title insurance is a U.S. product, but as investors move overseas, particularly lenders, they want assurance and we are seeing it resonate within countries,” Hawley said.

no significant marketing until the early 1990s. Most non-U.S. markets rely on a Title Registry (Torrens) and Public Notary system, and don’t understand the need for title insurance.

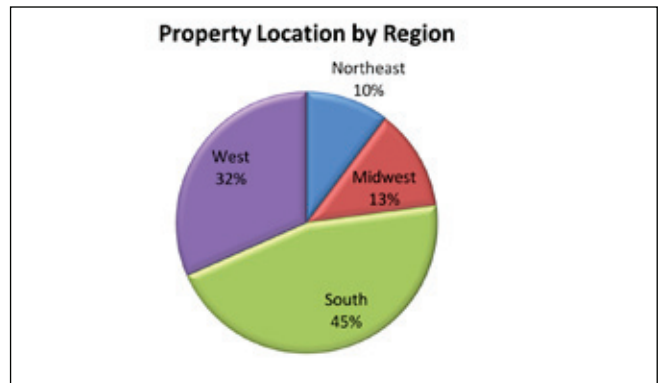
It’s important to note when handling transactions overseas, deals are more expensive and take longer.

Title searches also aren’t done on credit and cost on average \$5,000 to \$6,000.

“This is serious money and nonrefundable,” Hawley said. “That’s probably one of the hardest things for Americans who have to pay this up front. You need to set an expectation that some money will be



▲ Detached homes were in the majority of property. However, compared to domestic buyers, international buyers purchased more condos.



▲ In the South, foreign purchasers are concentrated in Florida and Texas. In the West, purchasers are mainly in California and Arizona.