



Vacatur of FinCEN Residential Real Estate Reporting Rule

A significant development has occurred with respect to the Financial Crimes Enforcement Network's ("FinCEN") residential real estate reporting framework that was slated to go into effect as of March 1, 2026. The rule requiring reporting of certain non-financed residential real estate transfers has been vacated, eliminating (at least for now) the anticipated nationwide compliance regime that was scheduled to take effect.

Background

FinCEN had adopted the Anti-Money Laundering Regulations for Residential Real Estate Transfers (the "Residential Real Estate Rule") to enhance transparency in all-cash residential real estate transactions involving legal entities, trusts, and similar structures. The Residential Real Estate Rule would have:

- Applied to non-financed (all-cash) transfers of 1-4 family residential properties (including condos and co-ops);
- Required disclosure of beneficial ownership information for transferees;
- Established a "cascading hierarchy" to determine the reporting party; and
- Imposed mandatory reporting obligations regardless of transaction size.

For further details regarding the Residential Real Estate Rule, please refer to our previous client alert [available here](#).

Vacatur of the Rule and Emerging Court Split

The US District Court for the Eastern District of Texas, in the matter of *Flowers Title Cos., LLC v. Bessent*, (E.D. Tex. Mar. 19, 2026) vacated the Residential Real Estate Rule, holding that FinCEN exceeded its statutory authority under the Bank Secrecy Act ("BSA") and violated the Administrative Procedure Act ("APA"). As a result of the ruling, FinCEN has stated on its website: "In light of a federal court decision, reporting persons are not currently required to file real estate reports with FinCEN and are not subject to liability if they fail to do so while the order remains in force."

Significantly, the *Flowers* decision contributes to an emerging split among federal courts regarding the scope of FinCEN's authority under the BSA. Through its vacatur of the rule, the US District Court for the Eastern District of Texas took a narrower view, questioning whether the statute authorizes such a broad, transaction-level reporting regime, and invoking administrative law concerns. Other federal courts, including the Middle District of Florida (see *Fidelity National Financial, Inc. v. Bessent*, (M.D. Fla. Feb. 19, 2026)) and the Northern District of Texas (see *Corley v. U.S. Department of the Treasury*, (N.D. Tex. Feb. 25, 2026)) have taken a more deferential approach, emphasizing FinCEN's broad anti-money laundering mandate and its authority to require reporting to prevent illicit finance. This divergence creates legal uncertainty and increases the likelihood of appellate review or further rulemaking.

What This Means Now

Effective immediately, the Residential Real Estate Rule is vacated and no longer in effect. Reporting persons, including title companies, settlement agents, and closing attorneys, are therefore not currently required to file Real Estate Reports. However, in light of the potential for further litigation, appellate review, or a stay, affected parties should continue to identify transactions that would otherwise be reportable and remain operationally prepared to comply if the rule is reinstated or replaced with a revised framework.

RMF will continue to track developments on this matter and provide regular updates. If you have questions about how this rule applies to your business, you should consult our experienced real estate counsel for guidance.

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