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Federal Court Vacates FinCEN Residential Real Estate Reporting Rule

By Adam Zaiger

This is an update to prior Alerts. On March 19, 2026, the U.S. District Court for the Eastern District of Texas, in *Flowers Title Companies, LLC v. Bessent*[1], vacated FinCEN's "Anti-Money Laundering Regulations for Residential Real Estate Transfers"[2] ("the Rule") in its entirety, striking down a key piece of the U.S. Treasury Department's broader effort to address money-laundering risks in residential real estate. The Court held that FinCEN exceeded its statutory authority under the Currency and Foreign Transactions Reporting Act of 1970, commonly referred to as the Bank Secrecy Act, and set the Rule aside nationwide effective immediately.

FinCEN's Rule, originally finalized in August 2024, was designed to require reporting of certain non-financed transfers of residential real property, particularly transactions involving legal entities and trusts. The Rule had been scheduled to take effect on December 1, 2025, but FinCEN later delayed implementation until March 1, 2026. The practical result of the Court's decision is that (absent a stay) the Rule is not currently enforceable. For the moment, parties that would otherwise have been treated as "reporting persons" under the rule, which include title, settlement, and closing professionals involved in covered non-financed residential transactions, appear to have no current federal obligation to make the FinCEN filings required by the vacated rule. However, the decision does not eliminate existing anti-money-laundering, sanctions, fraud-prevention, or suspicious-activity obligations that may arise under other laws, internal policies, lender requirements, or title underwriter protocols, and parties may continue to collect diligence and "know your customer" information voluntarily as a matter of risk management.

In anticipation of a potential appeal, all potential "reporting persons" should consider the following near-term actions:

1. Pause any filings that were being made solely because of the vacated FinCEN Rule, unless and until a stay or new directive is issued.
2. Preserve internal compliance workflows and training materials in anticipation of a potential reinstatement.
3. Continue risk-based diligence for sanctions, fraud, source-of-funds concerns, and suspicious transaction red flags under existing internal due diligence policies and other applicable laws and regulations.
4. Monitor appellate activity and FinCEN/Treasury guidance closely, particularly over the next several weeks.
5. Review transaction documents and intake forms to determine whether any representations, certifications, or information requests should be temporarily revised to reflect the current status of the rule.

This alert summarizes the Court's decision only in general terms and does not constitute legal advice. Please contact counsel if you need advice with respect to any specific transfer or transaction.

1. Civil Action No. 6:25-cv-00127
2. The full text of the regulations can be found at 9 Fed. Reg. 12,424 (February 16, 2024) (codified at 31 C.F.R. § 1031.320).

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