

FinCEN suspends enforcement of real estate reporting rule following district court vacatur

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FinCEN announced that it will not enforce reporting requirements under its residential real estate rule following the U.S. District Court for the Eastern District of Texas's decision to vacate the rule.

Following a federal district court opinion that vacates the Financial Crimes Enforcement Network's (FinCEN) Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule (the Residential Real Estate Rule), FinCEN has suspended enforcement of the Rule and announced that reporting persons will not be subject to liability for failure to report while the court's order remains in force. As discussed in our [client update](#), the [Residential Real Estate Rule](#) imposes reporting requirements for certain non-financed residential real estate transfers to legal entities or trusts.¹ The Residential Real Estate Rule was issued in August 2024 and went into effect on March 1, 2026 (after a short delay to the effective date to facilitate compliance). On March 19, 2026, the U.S. District Court for the Eastern District of Texas issued an [opinion](#) vacating and setting aside the Residential Real Estate Rule, finding that the Rule exceeded FinCEN's authority under the statutory provisions of the Bank Secrecy Act (BSA), which the agency relied upon to issue the Rule.

The case may bring a sense of déjà vu for those who followed the saga of FinCEN's Beneficial Ownership Information (BOI) Reporting Rule under the Corporate Transparency Act (CTA). In 2024, the Eastern District of Texas enjoined FinCEN's CTA reporting regime, a ruling that led to months of uncertainty while FinCEN repeatedly toggled enforcement on and off, in step with shifting appellate orders. As discussed in our [client update](#), FinCEN eventually issued an interim final rule in 2025 that eliminated reporting requirements for U.S. persons and entities under the BOI Reporting Rule. FinCEN has not signaled any similar plans to amend the Residential Real Estate Rule and appears poised to appeal the district court's decision.

What did the district court rule?

The Residential Real Estate Rule was designed to expand anti-money laundering oversight to non-financed residential real estate transactions involving legal entities, which has long been identified as a vehicle for illicit finance.² In the past, FinCEN had addressed money laundering in the residential real estate sector through geographically limited Geographic Targeting Orders (GTOs), which imposed more targeted and time-limited reporting requirements for non-financed purchases above specified price thresholds in select geographic areas. The Residential Real Estate Rule replaced that patchwork approach with a nationwide reporting obligation covering all non-financed transfers of residential real property to a legal entity or trust, with no minimum price threshold. The requirement to submit reports fell on "reporting persons" designated by the parties or determined by a "cascading" system covering settlement agents, closing attorneys, and title insurers, among others.

The Residential Real Estate Rule was subject to legal challenge in several jurisdictions (until this point, unsuccessfully). In the case before the U.S. District Court for the Eastern District of Texas, the plaintiff argued that the Rule exceeded FinCEN's statutory authority and should be set aside as unlawful under the Administrative Procedure Act (APA). The district court agreed, finding that neither of the provisions of the BSA that FinCEN relied upon authorized FinCEN to issue the Rule. In particular:

- Section 5318(g)(1) of the BSA authorizes FinCEN to require financial institutions to report “any suspicious transaction relevant to a possible violation of law or regulation.” The court concluded that non-financed residential real estate transfers are not categorically “suspicious” in the ordinary meaning of the term, and that FinCEN’s supporting evidence (e.g., statistic showing 42% of GTO-covered transfer parties had been flagged in Suspicious Activity Reports) were “vague” and “conclusory.”
- Section 5318(a)(2) authorizes FinCEN to require financial institutions to “maintain appropriate procedures, including the collection and reporting of certain information.” The court concluded that this provision governs *reporting procedures* and does not authorize a substantive reporting mandate.

As a result, concluding that the Residential Real Estate Rule exceeded FinCEN’s authority under the BSA, the court ordered universal vacatur as the appropriate APA remedy. Notably, the district court’s opinion diverges from other federal courts that have considered the Residential Real Estate Rule. In February 2026, for example, the U.S. District Court for the Middle District of Florida [ruled](#) that FinCEN acted within its statutory authority, adopting a magistrate judge’s recommendation to uphold FinCEN’s authority.

Looking forward

Following the decision by the Eastern District of Texas, FinCEN announced that “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.” As a result, all reporting requirements for transactions that would otherwise be covered by the Residential Real Estate Rule are currently suspended. While FinCEN has not, to date, filed an appeal, it appears likely that the agency will do so.

Reporting persons should monitor for developments in the litigation and be prepared to submit reports moving forward if the district court’s opinion is reversed on appeal. Stakeholders will no doubt hope the appellate process and FinCEN’s response to it unfolds in a more orderly fashion than it did in the litigation challenging the CTA.

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¹ FinCEN, Anti-Money Laundering Regulations for Residential Real Estate Transfers, 89 Fed. Reg. 70258 (Aug. 29, 2024); 31 C.F.R. § 1031.320.

² See, e.g., Financial Action Task Force, Guidance for a Risk Based Approach: Real Estate Sector (July 2022); U.S. Department of the Treasury, 2026 National Money Laundering Risk Assessment (Mar. 2026) ("Treasury has long recognized the illicit finance risks posed by criminals and corrupt officials who abuse opaque legal entities and trusts to launder ill-gotten gains through transfers of residential real estate.").