REALTORS: It's Time to Talk About FinCEN's Residential Real Estate Reporting Regulation

VAST Abstract, LLC

A BRIEF LEGAL HISTORY:

1970

Bank Secrecy Act passed requiring anti-money laundering and countering financing of terrorism programs for financial institutions.

1988

"Persons involved in real estate closings and settlements" were included in 1988's Anti-Drug Abuse Act but were excepted from rulemaking until the 2020 Anti-Money Laundering Act.

2024

FinCEN created final Residential Real Estate Rule that requires settlement agents to report specific information or be subject to civil and criminal penalties which could include imprisonment.

Starting March 1, 2026, settlement agents will be reporting residential real estate transaction information to FinCEN when the Buyer is an entity (corporation, LLC, etc.) or trust to FinCEN and there is no lender involved with an anti-money laundering program.

To comply with the reporting requirements, settlement agents will be asking Sellers and Buyers for information concerning:

- Reporting person information
- Closing date
- Property address and full legal description
- Transferee/Buyer information
- Person(s) associated with the transferee (authorized signers and beneficical owners)
- Transferor/Seller information
- If the Transferor is Trust, the trustee's information
- Purchase price
- Payment information, including bank account details for sourcing funds
- Detailed payment information for payments made on behalf of the Transferee/Buyer

These categories are required by FinCEN - settlement agents do not have a choice. So, let's work together to educate our consumer clients who will be required to provide and certify the information above in advance of closing.

NOTE: This information is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice. We recommend you consult your legal counsel and subject-matter experts to determine appropriate policies, procedures and strategies applicable to your office or organization.

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