



April 16, 2024

Director Andrea Gacki
Financial Crimes Enforcement Network (FinCEN)
Policy Division
P.O. Box 39
Vienna, Virginia

RE: Comment on the Financial Crimes Enforcement Network: Anti-Money Laundering Regulations for Residential Real Estate Transfers 89 Fed. Reg. 12424 (Feb. 16, 2024) Docket No. 2024-0005 and RIN 1506-AB54


Dear Director Gacki:

On behalf of the more than 1.5 million members of the National Association of REALTORS® (NAR) we applaud the work of the Financial Crimes Enforcement Network (FinCEN) in working to effectively combat money laundering and illicit financial crimes by issuing this rulemaking and in working to effectively implement the Corporate Transparency Act. NAR appreciates the opportunity to comment on the Notice of the Proposed Rulemaking (NRPM) on Anti-Money Laundering Regulations for Residential Real Estate Transfers. NAR supports FinCEN's efforts in developing a national, streamlined process to address non-financed residential real estate transfers and transactions. However, NAR has concerns regarding the proposed rule.

NAR supports risk-based and pragmatic solutions to combat money laundering and illicit financing involving real estate and supports FinCEN's efforts in proposing this rule to provide a national framework that would replace the Geographic Targeting Orders (GTOs). NAR supports FinCEN's efforts to provide greater predictability and certainty within the industry. NAR agrees with FinCEN's decision to focus this proposed rulemaking exclusively on residential real estate transactions. Commercial real estate transactions, while relevant, are nuanced, more complex, and generally include many additional parties who are involved in the transaction. Additionally, commercial transactions also generally include some level of due diligence given the nature of the transactions. FinCEN should successfully issue a final rule and assess the effectiveness of this rule for residential real estate transactions prior to developing another rule focused on commercial real estate transactions.

NAR shares concerns along with industry stakeholders that this proposed rule is too broad in scope by requiring the reporting of non-sale residential real estate transfers, in addition to non-financed real estate transactions as well. The rule should be limited in scope to only non-financed or all-cash residential real estate transfers and transactions. The rule should not be overly broad for FinCEN to gather more information than is necessary to stop bad actors from engaging in illicit crimes involving real estate.

 nar.realtor

 (800) 874-6500

 500 New Jersey Ave., NW
Washington, DC 20001

REALTORS® are members of the National Association of REALTORS®.

While NAR generally supports the reporting and recordkeeping requirements for certain persons involved in residential real estate transactions and generally supports the cascading reporting approach, NAR believes that FinCEN should clearly note that real estate agents and brokers should not be subject to the proposed reporting and recordkeeping requirements. Real estate agents and brokers are responsible for helping clients by serving as housing navigators and educators in the home buying process by providing clients with information related to specific residential properties and offering client support in the sale of real estate. Real estate agents and brokers are not trained and do not have the resources nor expertise to conduct client due diligence.

The duties and responsibilities of real estate agents and brokers is primarily focused on providing property specific information and market analysis to clients and consumers, and to broadly help clients get connected to the correct professionals throughout the real estate transaction process. Real estate agents and brokers serve as representatives and advocates for their clients. Generally, real estate agents and brokers rely on settlement agents, title agents, escrow agents, and attorneys to manage the settlement process, and a broader team of reliable experts throughout the real estate transaction process.

Settlement agents, title agents, escrow agents, and attorneys serve a key role in real estate transactions, and this rule should not serve as an impediment to any real estate transaction or create additional barriers or challenges for these professionals. Many of these professionals, like many real estate agents and brokers are small business owners who often face challenges in serving clients. The rule should not be overly burdensome and costly to small businesses who likely will have to pass the administrative costs associated with implementation of this rule to consumers in an already constrained housing market. Consumers will likely thus be forced to pay additional fees related to any type of additional due diligence or reporting required under this rule, and it will likely have the effect of impacting an increase in costs for all real estate transactions. FinCEN should carefully and deliberately assess the cost of compliance for small businesses in implementing this rule.

FinCEN should not require real estate professionals to provide information regarding the source of funds used to cover the sale of any non-financed real estate transactions. Obtaining source of fund information from consumers or clients can put real estate professionals in a precarious situation and extremely dangerous situation by requiring real estate professionals to serve in a law enforcement or work in an investigatory capacity. Most real estate professionals do not have the training or expertise for managing how to identify source of funds.

Information that should be reported under the rule should not be duplicative or information that regulators can obtain from other sources. Seller information should not be required to be supported under the rule, because the information can be obtained from other sources. It is imperative that FinCEN fully utilizes the information that it has been provided and that it has access to. To this end, information that FinCEN is receiving through its beneficial ownership data collection should be used to help inform and guide this rule.

Washington, DC 20001

Ongoing education anti-money laundering education is necessary for real estate professionals and throughout the industry. NAR encourages FinCEN to work with real estate commissions and other industry stakeholders to advance anti-money laundering education for professionals. NAR has issued the [Anti-Money Laundering Voluntary Guidelines for Real Estate Professionals](#) and will continue its efforts to educate REALTORS® and other industry stakeholders on the importance of this issue.

Again, NAR applauds FinCEN's efforts in working to combat money laundering, terrorist financing, and other illicit financing prevalent in the real estate industry. NAR welcomes the opportunity to meet with FinCEN and work collaboratively with FinCEN on this rule, its impact, and on other related anti-money laundering measures impacting the real estate industry.


Thank you, and should you have any additional questions, please contact me or Nia Duggins, Sr. Policy Representative, nduggins@nar.realtor.

Sincerely,



Kevin Sears
2024 President, National Association of REALTORS®

 nar.realtor

 (800) 874-6500

 500 New Jersey Ave., NW
Washington, DC 20001

REALTORS® are members of the National Association of REALTORS®.