Business / Anti-Money Laundering and Counter Terrorist Financing

NAR Committee:

Business Issues Policy Committee

What is the fundamental issue?

Real estate professionals should understand key risks and challenges with money laundering, terrorist financing, and illicit financial crimes involving real estate. Additionally, real estate professionals should understand their role and responsibilities in working to help combat such crimes while protecting the integrity of real estate transactions and consumers.

I am a real estate professional. What does this mean for my business?

The USA PATRIOT Act, the Bank Secrecy Act, and Executive Order 13224 have increased the level of the government's scrutiny of financial transactions in an effort to prevent money laundering and block the financial dealings of terrorists. Under the USA PATRIOT Act, financial institutions are required to create anti-money laundering (AML) and customer identification programs. The Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and individuals. OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries collectively called Specially Designated Nationals (SDNs).

The laws impose the following duties on real estate professionals:

- Real estate brokers and agents must report, using IRS form 8300, any single or series of related transactions in which they receive cash in excess of $10,000.
- SDN assets are blocked, and all businesses (including real estate agents and brokers) have a responsibility to ensure that they are not dealing with any SDN by checking the list provided by OFAC. The SDN list can be found at:www.treasury.gov/sdn.

At this time, real estate firms and professionals engaged in brokerage or property management activities are not required to implement formal anti-money laundering or anti-terrorist financing (AML/TF) programs, as do regulated financial institutions and title companies. However, the U.S. Department of Treasury has the authority to change this and expand coverage of these requirements. To date, the Department of Treasury implements a risk-based approach, focusing regulation on high-risk entities such as financial institutions rather than non-financial professions.

In 2017, the Financial Crimes Enforcement Network (FinCEN), Treasury's lead agency on AML/TF requirements, issued anAdvisory to Financial Institutions and Real Estate Firms and Professionalsto provide information on money laundering risks for real estate transactions. The Advisory provides examples of money laundering in the real estate sector, how shell companies and all-cash purchases may be linked to illicit activity, and ways in which real estate professionals can voluntarily file suspicious activity reports. FinCEN also continues tracking data reported by title companies involved in certain high-end real estate

transactions throughGeographic Targeting Orders(GTOs).

On March 1, 2026, the FinCEN Residential Real Estate Rule went into effect requiring certain residential real estate professionals to report information related to non-financed residential real estate transactions and transfers of real estate. The new rule primarily requires title agents, escrow agents, attorneys, and real estate professionals involved in settlement services to report in compliance with the law. On March 19, 2026, a Texas federal court vacated the rule, and reporting is not required at this time. However, FinCEN and the U.S. Department of Justice have recently appealed the federal court decision seeking to reinstate the rule.

FinCEN has developed several resources including the FinCEN Residential Real Estate Rule FAQs for Real Estate Professionals. NAR also developed and issued the Anti-Money Laundering Voluntary Guidelines for Real Estate Professionals to increase real estate professionals' awareness, knowledge, and understanding of money laundering risks and to provide practical guidance on ways to mitigate various risks.

NAR Policy:

NAR supports continued efforts to combat money laundering and the financing of terrorism through the regulation of entities using a risk-based analysis. Any risk-based assessment would likely find very little risk of money laundering involving real estate agents or brokers. Regulations that would require real estate agents and brokers to adopt anti-money laundering programs would prove burdensome and unnecessary given the existing AML/TF regulations that already apply to United States financial institutions.

As anonymous shell companies are increasingly being used by corrupt foreign and domestic interests to launder money via real estate purchases, the lack of identification of "beneficial owners" of these companies has also created obstacles for law enforcement agencies' enforcement of AML laws. NAR therefore supports the disclosure of beneficial ownership of business entities at the time those entities are registered with the states, with appropriate consideration given to address legitimate business privacy concerns. Allowing law enforcement to have access to such information will improve tracking of illicit money laundering schemes, and also reduce growing pressures to impose bank-like AML responsibilities on real estate professionals.

Opposition Arguments:

Some believe that real estate agents and brokers should be required to have specific anti-money laundering plans and procedures in place. NAR believes that such requirements would be overly burdensome compared to the risks. NAR worked with the Department of the Treasury to develop suggested voluntary guidelines for real estate professionals in an effort to be proactive in working collaboratively with regulators to identify ways to pragmatically work to address money laundering and financial crimes involving real estate.

Legislative/Regulatory Status/Outlook

In 2021, Congress passed the Corporate Transparency Act (CTA) and the Anti-Money Laundering Act (AMLA). These two bills aimed to reform the current anti-money laundering regime and to strengthen and

modernize anti-money laundering laws. The laws mandated the Financial Crimes Enforcement Network (FinCEN) to work with other federal partners and stakeholders to identify and assess risks and to develop solutions to address current anti-money laundering challenges.

The CTA established a formalized beneficial ownership reporting regime for corporations, limited liability companies, and other legal entities formed under state law in the U.S. The purpose of this beneficial ownership reporting regime is to prevent the formation of anonymous shell companies created under state law and are also often used for illicit purposes.

Under the CTA, FinCEN is authorized to collect beneficial ownership information and mandated to create a national registry to properly store information that is collected from beneficial owners. FinCEN was also charged with developing the proper safeguards and controls to protect beneficial ownership information submitted to the Bureau. The law provided FinCEN with broad rulemaking and oversight authority to do the following: establish the standards for beneficial ownership information reporting; establish a national anti-money laundering database to beneficial ownership data; establish and outline the guidelines and protocols for access to the beneficial ownership database; to expand Bank Secrecy Act requirements and establish national anti-money laundering and counterterrorism financing reforms among other changes.

In 2024, the Beneficial Ownership Information Reporting rule became effective requiring newly formed entities to report beneficial ownership information to FinCEN. In March 2025, FinCEN determined that only foreign entities and beneficial owners from outside of the U.S. were required to report under the Beneficial Ownership Rule. In March 2025, FinCEN announced that only foreign entities formed outside the U.S. were only subject to the rule. For more information, please visit, fincen.gov/boi.

In 2024, FinCEN issued the final Residential Real Estate Rule requiring certain real estate professionals to file real estate reports with FinCEN for non-financed residential real estate transactions and transfers of residential real estate. The new law primarily requires title agents, escrow agents, attorneys, and professionals involved in the closing process to report information for non-financed transactions, and transfers of real estate. As of March 19, 2026, the rule is not in effect due to a court order vacating the rule. However, in May 2026, the Department of Justice and FinCEN appealed the Court order in an effort to reinstate the rule. To learn more about the Residential Real Estate Rule, please visit, fincen.gov/rre.

NAR continues to monitor anti-money laundering and counterterrorism developments impacting the real estate industry and will continue to provide updates and guidance.

Current Legislation/Regulation (bill number or regulation)

FinCEN Residential Real Estate Rule

Anti-Money Laundering Regulations for Residential Real Estate Transfers

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