

President  
Gil Ernst



Executive Vice President & CEO  
Leslie Midgley, CAE

Policy Division  
Financial Crimes Enforcement Network  
P.O. Box 39  
Vienna, VA 22183

Date: September 26, 2025

RE: Request for Delay in Implementation of FinCEN's Final Residential Real Estate Reporting Rule.

Dear Director Gacki,

Founded in 1908, The Texas Land Title Association (TLTA) is a statewide trade association representing the Texas title insurance industry and currently serving over 20,000 professionals involved in the safe and efficient transfer of real estate. In the course of their daily work, our membership serves over a million consumers each year. With active members in virtually every county in Texas, TLTA membership comprises over 80 percent of all title insurance agents and underwriters licensed to do business in Texas.

TLTA appreciates FinCEN's ongoing consideration of the effects of its final Rule on the title industry and its willingness to work with the industry to ensure responsible implementation is possible. However, TLTA respectfully requests that FinCEN delay the implementation of its Real Estate Reporting Rule. **We believe that a delay in the final Rule is necessary to ensure that the title industry can be fully prepared for this compliance shift.**

As was discussed in the Congressional Financial Services Hearing on September 9, 2025, you indicated an openness to delay the effective date of the Rule, and we believe there are several factors that warrant the delay of the final Rule. FinCEN has still not released the final Form to be used beginning December 1. This causes multiple challenges not just for educating the industry but also for implementation and innovation. Without access to the finalized form and additional clarity on whether it will be a "smart" form, the title industry cannot properly design, test, and implement the necessary workflows for reporting. Title software companies have not been able to build integrations that would be compatible with reporting. This leaves settlement agents facing the prospect of manual processes that increase costs, risk of errors, and delays in closings. Additionally, many real estate deals have a 60-day closing period, and even contracts with shorter closing deadlines may be extended for various reasons. The end result is that the industry needs to begin considering screening transactions and collecting data **now** in order to ensure compliance with the Rule and its December 1, 2025 start date.

To add to this issue, FinCEN has not provided – nor has there been any communication that it will provide – standardized information collection forms available to all settlement agents (regardless of their business affiliations or lack thereof) that are approved by FinCEN and align

with the reporting requirements. The absence of universally adopted collection forms undermines consistency and increases the risk of errors, rejected filings, or incomplete data submissions. Until FinCEN ensures that uniform, publicly available collection tools exist for all agents, compliance will be fragmented, and consumers will bear the burden of delays and added costs.

In addition, FinCEN has not been able to publish FAQs related to the Rule, as it has repeatedly promised. Consumers and reporting persons have not received guidance on the time period for “intends to build,” any acreage limitations, manufactured home parks where the ownership of the land and the improvement often are separate. Moreover, there is confusion on whether apartment or condominium buildings are included. What if the land is a mixed-use development? Further, are judicial foreclosures or receiverships exempted as court supervised transactions? What about a deed in lieu of foreclosure? 1031 transactions are excluded, but what about a reverse 1031 transaction where there is a deed transfer to an entity temporarily owned by the qualified intermediary before the entity is transferred to the consumer? And it is still not clear as to how to handle “mom and pop” small businesses with poor or no documentation beyond a charter from the state. Also, if a party fails to provide complete information, is the only remedy to not close the transaction? Those parties will likely close without the title company and report nothing. There is much to be addressed in practically applying the Rule and that guidance is not available at this time. It will take some time to think through the many real life gaps needing explanation and direction. It is worth noting that the promised website “sandbox” for testing and learning does not yet exist.

Further, due to sluggish market conditions, title companies (the primary Reporting Persons under the Rule) have not been able to hire sufficient staff or devote substantial resources toward preparation. As discussed during the hearing and in FinCEN’s own estimates, the cost of compliance with the Rule will be significant for the title industry, regardless of market conditions: roughly an additional \$500 expense per transaction. That estimate does not include training, technology needs and staff time. While we recognize and appreciate FinCEN’s efforts to work with and educate the industry in advance of implementation, education alone cannot achieve compliance if companies lack the personnel and resources necessary to put that guidance into practice, especially when facing increased costs. Outsourcing the reporting will also not address many of the tasks required by the Rule.

Finally, as FinCEN is aware, multiple federal lawsuits are challenging the Rule’s constitutionality, alleging violations of the First and Fourth Amendments, and the limits of statutory authority under the Bank Secrecy Act<sup>1</sup>. While the courts may ultimately decide the Rule’s fate, these cases reflect a deep unease within the industry and the public about the program’s reach, justification, and legality. In the meantime, FinCEN has an opportunity – and a responsibility – to delay the implementation of the Rule to allow time for the pending litigation to play out and the affected parties to determine the impact on the industry as a whole.

---

<sup>1</sup> *Fidelity Nat’l Fin., Inc. v. FinCEN*, Case No. 3:25-cv-00554 (M.D. Fla.); *Flowers Title Co. v. Bessent*, Case No. 6:25-cv-00127 (E.D. Tex.); *Corley v. Bessent*, Case No. 5:25-cv-00086 (N.D. Tex.).

For these reasons, we strongly urge FinCEN to delay implementation until after:

1. A final form is issued and made available;
2. Software providers have sufficient time to develop and deploy integrations;
3. Standardized collection tools accessible to all agents are in place;
4. FAQs are completed and published on the FinCEN website;
5. The website “sandbox” for testing and learning is available; and
6. Pending litigation has reached resolution or provided meaningful guidance.

Providing adequate time for the industry and the FinCEN agency to prepare will not only ensure compliance and provide more accurate information but also protect the consumers who rely on the timely and efficient transfer of their property.

Sincerely,



Gil Ernst  
President



Leslie Midgley, CAE  
Executive Vice President and CEO



Aaron Day  
Vice President of Government  
Relations and Counsel