



January 13, 2025

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

Re: Docket Number FINCEN-2024-0019 and Office of Management and Budget (OMB)  
control number 1506-0080

Director Gacki,

The American Land Title Association<sup>1</sup> (ALTA) appreciates Financial Crimes Enforcement Network's (FinCEN) continued engagement with the title industry as we work to implement the Anti-Money Laundering Regulations for Residential Real Estate Transfers final rule. This letter provides a number of specific changes to the draft report form that, if not accepted, will make compliance with this rule significantly more onerous and costly for settlement agents required to file these reports. It will also make the data collected significantly less valuable for FinCEN and its law enforcement partners.

Overall, ALTA believes the report form is overly complex and cumbersome. As discussed in the notice, the form contains 111 distinct fields of which you expect 60 percent to be completed in a transaction. As has been our experience with reporting transactions under the Geographic Targeting Orders (GTOs), we believe the length of the form, use of non-industry specific terminology and lack of clear instruction will overly burden reporting persons and lead to an unnecessarily increased call volume for FinCEN's support services. Additionally, the lack of clear instructions for industry on utilizing automated interfaces (application programming interfaces or APIs) to push data into the Bank Secrecy Act (BSA) filing system makes it difficult for industry to use technology to reduce costs.

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<sup>1</sup> ALTA represents title insurers, title agents and attorneys that provide peace of mind to Americans by insuring their property rights and closing their real estate transactions. Our members range from small, one-county operations to large national title insurers in the United States. The mission of ALTA is to improve the skills and knowledge of providers in the real property transaction, effectively advocate member concerns, and standardize products for industry use.

For example, once settlement agents have the data they collected, they need an efficient way to provide this data. It is burdensome to rekey much of the data that may already exist in closing software into a website or webpage and substantially raises costs, time and effort.

Ideally, FinCEN should allow an API for the collection of this data. We need a technology partnership that will allow the ability to provide an efficient solution for the transmission of data from the operations as well as a resource/pass-thru for its agents. This solution would further allow for the validation of the settlement agent entity and the ability to return confirmation and/or proper error handling for the submissions. The industry needs a new tool or process, rather than a rehash of the GTO reporting. FinCEN should assist the industry in capitalizing on its available technology to improve efficiency.

Given these concerns, we offer the following suggested changes to the real estate report form to improve usability for settlement agents.

**Remove requirements that *all* fields be completed before submission is allowed:**

The preamble to the final rule acknowledges that reporting persons<sup>2</sup> will need to rely on information provided by the buyer, seller and their representatives to complete a report. There are relatively few (approximately 35) of the 111 fields that reporting persons will have available in their files or that they can readily obtain from someone other than the buyer, seller and their representatives (parties). As discussed in our meeting on November 22, 2024, there will be a high number of reports where some required piece of information is unavailable to the reporting person. This is true today under the current GTOs. Other than to call FinCEN for guidance, there is no instruction on what the reporting person can do to complete the form, nor an option to leave the relevant fields blank.

Beyond scenarios where the reporting person cannot obtain all required information, there may also be situations where the reporting person feels that they cannot comfortably rely upon the information provided by the parties. Given the liability provided under the BSA, reporting persons must have an avenue for submitting reports when they do not have all the information or cannot rely on the information provided by the parties.

Taking into account the practicalities discussed above, mandatory fields should be limited to fields related to the reporting person's own information and to the basic transaction details readily available to reporting persons. These would include fields 1-22 and the legal names of the parties.

Additionally, Field 3 should not include the direction, "must be blank unless otherwise directed by FinCEN." Instead, FinCEN should prepare a Frequently Asked Question to provide samples of notes for reporting persons to provide in different scenarios that can be entered in Field 3.

**Provide allowances for reporting persons to indicate information that could not be collected:**

The final rule allows reporting persons to reasonably rely on the information provided by the parties to the transaction. This is in recognition of the fact that reporting persons have no independent ability to obtain information about the parties and their financing details. As with the GTOs, the

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<sup>2</sup> For the purposes of this letter, the term reporting person(s) refers to settlement agents or any other individual required to, and held liable for, completing the real estate reporting form.

sensitivity of much of this information will make it likely that many parties will refuse to provide some of this information. For example, buyers and sellers will likely hesitate to provide citizenship information. Further, reporting persons are going to be cautious about aggressively pushing for some required information due to anti-discrimination laws like the Fair Housing Act.

Likewise, given the repeated warnings about real estate wire fraud<sup>3</sup> and seller impersonation scams, parties are rightfully concerned about providing their bank account numbers as presently required in Part V. This data is largely unnecessary since existing state laws require parties to fund transactions using bank payments which are already subject to Anti-Money Laundering (AML) and Suspicious Activity Report (SAR) review, such as wire transfers and certified checks.

Reporting persons need an avenue to report the transaction while acknowledging the parties' lack of cooperation. Under the GTOs, when parties refuse to provide data, the reporting person will usually get instruction from FinCEN's BSA call center to file the incomplete report and file a suspicious activity report. A similar allowance is needed here that does not require contacting FinCEN's BSA call center or the filing of a separate suspicious activity report. Requiring reporting persons to obtain instruction from FinCEN's BSA call center before filing will overwhelm the system given the high volume of expected reports.

Providing the flexibility within the form for the reporting person to identify the reason a field is not complete – such as allowing the reporting person to select “not provided by party”, “N/A,” or “exempt” – will enable the reporting person to demonstrate their willingness to comply with the rule and assist FinCEN to identify why a field was not able to be completed.

**Separate Part III, Transferee Information, into two separate sections, one for Entities and one for Trusts:**

Part III in its current form will lead to confusion and possibly inaccurate reports being filed. In combining information required for both entity and trust transferees, FinCEN expects reporting persons to discern which data fields apply and which do not apply to the particular party for which they are reporting information. A much clearer approach would be to create a Part III for Transferee Entities and a Part IV for Transferee Trusts. This will ensure that information is reported accurately and efficiently in these cases.

**Utilize widely recognized real estate industry terms instead of phrases like transferee, transferor and reporting person**

One of the biggest challenges with implementing this rule will be training the employees of over 17,000 settlement agencies across the country. The overwhelming majority of these businesses are small businesses, with the average settlement agency having fewer than 5 employees and reporting \$500,000 in gross revenue or less. Utilizing more widely recognized terminology instead of the phrases currently used in the rule will make the report easier to train on and complete.

To this end, we request you update the form to use additional terms to ease understanding. Terms like transferee should also have the parenthetical “(buyer)” added to conform to traditional

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<sup>3</sup> <https://www.fincen.gov/news/news-releases/fincen-analysis-business-email-compromise-real-estate-sector-reveals-threat>

nomenclature. Likewise, add the parenthetical “(seller)” when using the term transferor. Another example is adding “(sale price)” when discussing total consideration paid.

**Allow for the uploading of pertinent documents and adequate character counts:**

A number of fields require information that may be voluminous or already captured in a separate document. One example of this is the property’s legal description. This information can be multiple paragraphs or pages depending on the property. It would be more efficient to just require the reporting of the tax parcel number and property address, while only requiring the legal description if those are not available. However, if FinCEN does feel they need the legal description, then you should ensure that settlement agents can copy and paste from the deed or upload a copy of the deed to avoid unnecessary re-keying. In such cases where uploading a document is not possible, the form’s fields should permit unlimited characters to permit accurate and complete reporting of available information.

Additionally, in trust transactions the rule acknowledges that roughly a dozen fields can only be completed by obtaining a copy of the trust certificate. Thus, the reporting person should be able to upload the trust certificate in lieu of completing fields containing similar information such as the legal name of the trust, its address and settlor.

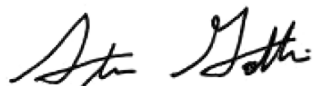
**Add form logic when the report is completed online:**

Given the large number of fields that may not be needed depending on the transaction, FinCEN should employ generic “if/then” logic to remove or gray out fields that are not applicable. For example, if on question 23 the reporting person states the transferee is an entity, then all the fields or options only relevant to trusts should be removed or made unavailable for selection.

Additionally, for beneficial ownership fields, FinCEN should add a “same as above” check box for addresses. Often the address for the beneficial owners of a trust is the same as another reported address (like the property address).

ALTA appreciates your consideration of all of these suggestions. We believe they will reduce the overall complexity of this reporting obligation and, over time, reduce the high cost of this regulation while effectively meeting its objectives. Please reach out to Steve Gottheim, General Counsel, at [sgottheim@alta.org](mailto:sgottheim@alta.org) should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Gottheim".

Steve Gottheim  
General Counsel