



The Honorable Andrea Gacki
Director
Financial Crimes Enforcement Network
U.S. Department of the Treasury
P.O. Box 39
Vienna, VA 22183

Dear Director Gacki:

I appreciated hearing your testimony before the House Financial Services Subcommittee on National Security, Illicit Finance, and International Financial Institutions on Tuesday, September 9, regarding FinCEN's Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule (the Rule). Given FinCEN's delay in finalizing and releasing its support materials like the reporting form and additional FAQs, we believe that the title industry will not be ready to implement the Rule by December 1. Despite working diligently to prepare, including hosting thousands of hours of education and creating new materials and tools, there is not enough time left. This is even more concerning given the criminal penalties associated with potential compliance issues. We urge FinCEN to delay the effective date of this rule to allow more time to work with the title industry to address many of our concerns – concerns that were echoed by Members of the Subcommittee.

In your exchange with Representative Roger Williams (R-TX), you indicated openness to delaying the Rule's effective date to ensure that title companies, especially small businesses, are prepared to comply, stating:

if we determine that more time is needed for them to be able to implement this rule, we will certainly explore methods and ways to give them that additional time to ensure a responsible implementation of this rule.

The title industry is deeply concerned that the December 1 effective date is unworkable if for no other reason than a final reporting form has not been released by FinCEN. Without the form, title companies have been unable to properly train their staff or integrate their systems, and time has run out to do so effectively. Given that many real estate deals may have 60-day closing periods, the industry needs to start screening transactions and collecting data on October 1 to comply properly – that is less than one month from today.

In your exchange with Chairman French Hill (R-AR), you acknowledged the value of looking at other sources of data, rather than requiring the duplicative collection in a new reporting regime, stating:

the idea that the Congressional and executive branches should look at existing pools of data and determine how best to use those in the first instance is very well

taken and I look forward to working with Treasury leadership on this very issue to explore whether it is a possibility.

This is an issue that ALTA has raised with FinCEN previously. Much of the data required to be collected by the Rule, outside of the beneficial ownership information (BOI), is already collected by other financial institutions. FinCEN could access this information from these institutions, instead of asking small title companies to spend money to collect this same information again. We urge FinCEN to heed this suggestion from Chairman Hill and analyze how other data sources could be used to access information already available to FinCEN, rather than requiring title companies to collect it again. This would go a long way in reducing the larger burden this rule places on small title companies across the country.

Finally, in your exchange with Representative Young Kim (R-CA), you agreed to attend a roundtable with title companies in her Southern California District. We appreciate your willingness to engage directly with title companies to better understand the burden being placed on them by the Rule. Yet, given the nationwide nature of the Rule, we would urge FinCEN to host several roundtables with title companies across the country on this topic. ALTA would be happy to aid in bringing title companies to the table to discuss the Rule and its impacts with you and your team. We also urge FinCEN to hold roundtables with real estate agents to educate them about the Rule. While they may not be required to report information, real estate agents will need to be willing partners to help title agents educate their customers and facilitate information collection.

We urge FinCEN to delay the implementation of the Rule and work with the title industry to address our concerns about its real burdens. We would welcome more time to engage with FinCEN and help facilitate conversations with title companies across the country.

Thank you for your prompt attention to this matter. Should you have any questions, please contact ALTA's General Counsel, Steve Gottheim, at steve@alta.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Morton".

Chris Morton
Chief Executive Officer
American Land Title Association