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ADVISORY



Update: Federal District Court Vacates FinCEN's Final Residential Real Estate Rule

March 25, 2026

This Advisory provides a brief update on recent litigation regarding the US Treasury Department's Financial Crimes Enforcement Network (FinCEN) Residential Real Estate Rule and its reporting requirements. It is not intended to, and does not, provide legal, compliance or other counsel to any individual or entity. For a general summary of the Residential Real Estate Rule, please refer to our prior advisory from March 12. Please reach out to your Katten attorney for assistance regarding the application of the Residential Real Estate Rule to your specific situation.

On March 19, 2026, the US District Court for the Eastern District of Texas entered a final judgment setting aside and vacating FinCEN's Residential Real Estate Rule in its entirety, including the reporting obligations pursuant thereto. *See Flowers Title Companies, LLC v. Bessent, et al., Case No. 6:25-cv-127-JDK (E.D. Tex. Mar. 19, 2026)*. As described in our prior advisory, the Residential Real Estate Rule imposed certain reporting requirements in connection with specified "non-financed" transfers of residential real estate commencing on March 1, 2026. Notably, "non-financed" transfers include not only so-called "all cash" purchases but also transfers with financing provided by debt funds and other private lenders that are not already subject to FinCEN's anti-money laundering and Suspicious Activity Report obligations. In the *Flowers* case, US District Court Judge Jeremy D. Kernodle determined that the Residential Real Estate Rule exceeded FinCEN's statutory authority under the Bank Secrecy Act and ordered that the final Residential Real Estate Rule be vacated and set aside.

Parties to transactions within the scope of the rule are questioning the effect of the *Flowers* case, and FinCEN has since clarified that "[i]n light of a federal court decision, reporting persons are not currently required to file real estate reports with FinCEN and are not subject to liability if they fail to do so while the order remains in force." However, it is important to note that the *Flowers* judgment is subject to appeal and further procedural developments, and that other district courts have addressed similar challenges to the Residential Real Estate Rule and reached different conclusions. *See: Fidelity Nat'l Fin., Inc. v. Bessent, Case No 3:25-cv-0054-WWB-SJH (M.D. Fla. Feb. 19, 2026); and*

Corley v. U.S. Department of the Treasury, et al., Case No. 5:25-cv-00086-H (N.D. Tex. Feb. 25, 2026).

Further procedural and appellate developments may happen quickly or without advance notice, and any changes may or may not include a reinstatement of the Residential Real Estate Rule's reporting requirements. Katten will continue to closely monitor further developments on the subject as they arise.

The full opinion is available here.

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