INSIGHTS + NEWS

Client Alert: Consider Transferring Real Estate Before New Regulations are Re-Imposed

BY SAMANTHA P. MCDONALD • MARCH 24, 2026

If you are considering transferring real estate into a trust or a business entity, you may be more comfortable doing it soon before the Treasury Department's new regulations are re-imposed.

The Financial Crimes Enforcement Network (FinCEN), which is part of the United States Treasury Department, has imposed the "Anti-Money Laundering Regulations for Residential Real Estate Transfers," or RRE or the "Rule" for short. The Rule requires that all transfers of residential real estate to an entity or a trust without financing by a lender who is subject to the anti-money laundering requirements be reported to FinCEN. Residential real estate includes any one-to-four family residential property, condos, and vacant land that you intend to build a residence on. There are some narrow exceptions, but in general, transfers of your own residential property to a trust you may control or be a beneficiary of, or to a company where you are the manager, member, director or shareholder, require the person preparing the deed to file a report with the federal government. These reports include personal information regarding both the transferor and the transferee/recipient, including birth dates, Social Security numbers, and copies of unexpired government-issued identification for each person benefitted by the trust, acting as a trustee, owning 25% or more of a company, or in substantial control of a company. If another trust or company is a beneficiary of the transferee trust or business, we are required to get all that information for each entity and individual person down the chain. Additionally, we have to provide copies of the trust or organizational documents for each entity.

This requirement went into effect on March 1, 2026, and was vacated by a federal court on March 19, 2026. Given that it was upheld by a different federal court, we anticipate that FinCEN will appeal the ruling. As of March 23, 2026, FinCEN posted that real estate professionals are not required to collect this information pending further court action.

Many of our clients have been uneasy with so much personally identifying information being fed into a federal database. If you have been thinking about transferring property into a trust or a business entity, either for tax purposes, liability protection or estate planning, you may wish to do so soon while enforcement of the RRE is paused.

For questions related to this alert, please contact the alert author or your Bowditch attorney.