FinCEN Reporting Requirements

NAVIGATING THE TWISTS AND TURNS

FinCEN Intention:

- Prevent illicit actors from using legal entities and trusts to anonymously launder illicit funds through the U.S. residential real estate market.
- Identify individuals involved in the "entities" by requiring industry reporting of very specific information for members, managers, trustees, and other relevant parties.

Scope of the Rule

A reportable real estate transaction meets the four following requirements:

- **Property Type:** Residential Real property
- **Financing:** Non-financed (cash or private non-licensed lender)
- **Transferee:** Buyer is a legal entity or trust
- **No exemption applies:** Not a result of transfer due to death or divorce

Reporting Responsibility Cascade

- Settlement agent listed on the settlement statement
- Individual who prepared the settlement statement, even if it is not an ALTA statement
- Individual or company that files the deed for recording
- Company that issues the owner's title policy
- Company that disburses the greatest amount of funds (in states with split closings)
- Individual or company that conducts the title exam
- Individual or company that prepares the deed

No Completed Form, No Closing

This is not optional for any settlement agent. If the requested information is not completed by both parties, we will refrain from closing unless another party in the reporting cascade is willing to sign an agreement to complete the reporting.

- The initial fine for non-reporting is estimated at $500.
- Habitual non-reporting may result in fines of $50,000.
- Penalties may be assessed up to the amount of the sale.
- Jail time of up to 10 years may apply if facilitating non-reporting.

REACH OUT TO YOUR LOCAL BRANCH FOR MORE INFORMATION.

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