

Supporting Statement
OMB Control Number 1506-0080

Anti-Money Laundering Regulations for Residential Real Estate Transfers and the Real Estate Report

1. Circumstances necessitating collection of information.

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)¹ and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).² The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, and includes notes thereto, with implementing regulations at 31 CFR chapter X.

The Secretary of the Treasury (Secretary) is authorized to administer the BSA and to require financial institutions to keep records and file reports that “are highly useful in criminal, tax, or regulatory investigations or proceedings” or in the conduct of “intelligence or counterintelligence activities, including analysis, to protect against international terrorism.”³ The Secretary has delegated the authority to implement, administer, and enforce compliance with the BSA and its implementing regulations to the Director of the Financial Crimes Enforcement Network (FinCEN).⁴

FinCEN is issuing this statement to support its request that the Office of Management and Budget (OMB) approve the Real Estate Report (RER) — the form that will be used to collect information about certain residential real estate (RRE) transfers, as required by the Anti-Money Laundering Regulations for Residential Real Estate Transfers final rule, hereafter referred to as the Residential Real Estate Rule (RRE Rule). FinCEN issued the RRE Rule on August 29, 2024, and the RRE Rule has an effective date of December 1, 2025.⁵ Briefly, the RRE Rule requires certain persons involved in real estate closings and settlements (reporting persons) to submit reports to FinCEN and keep records on certain non-financed transfers of residential real property. Reporting from the RRE Rule is expected to curtail the ability of illicit actors to launder illicit proceeds anonymously through transfers of residential real property, which threatens U.S. economic and national security. More broadly, this reporting is expected to assist the U.S. Department of the Treasury (Treasury), law enforcement, and national security agencies in addressing illicit finance vulnerabilities in the U.S. residential real estate sector. The RRE Rule describes the circumstances in which a report must be filed, who must file a report, what information must be provided, and when a report is due.

1 USA PATRIOT Act, Pub. L. 107–56, 115 Stat. 272 (Oct. 26, 2001).

2 The AML Act was enacted as Division F, sections 6001–6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116–283, 134 Stat 3388 (Jan. 1, 2021).

3 31 U.S.C. 5311(1).

4 Treasury Order 180–01 (Jan. 14, 2020); *see also* 31 U.S.C. 310(b)(2)(I) (providing that the Director of FinCEN “[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary.”).

5 *See* FinCEN, *Anti-Money Laundering Regulations for Residential Real Estate Transfers Final Rule*, [89 FR 70258](#) (Aug. 29, 2024).

On November 13, 2024, FinCEN issued a 60-day notice, consistent with the requirements of the Paperwork Reduction Act of 1995 (PRA),⁶ which proposed the RER for public comment (RER 60-Day Notice).⁷ The comment period for the RER 60-Day Notice closed on January 13, 2025. Section 8, below, contains a summary of those comments.

2. Method of collection and use of data.

FinCEN intends to collect specified information from real estate professionals that perform certain functions in the closing of certain residential real estate transfers through an electronic form, referred to as the RER.

As discussed in more detail in Section 8, the RER 60-Day Notice included an appendix with the proposed data fields for the specific information that will be collected on the RER. The RRE Rule requires a reporting person to file a RER by the later of either: (i) the final day of the month following the month in which the date of closing occurred; or (ii) 30 calendar days after the date of closing.⁸

Authorized Federal, State, local, and Tribal law enforcement agencies, as well as national security agencies and certain regulators, will have access to the collected information through FinCEN and may use this reporting to monitor compliance, develop leads, aid in investigations, and support prosecutions and asset recovery efforts to combat money laundering and associated crimes involving non-financed RRE transfers.

3. Use of improved information technology to reduce burden.

FinCEN expects that compliance with the RRE Rule's requirements will necessitate the use of information technology systems to file the information requested by FinCEN. RERs will be filed electronically through FinCEN's BSA E-Filing System, an online interface that financial institutions are required to use to file other types of BSA reports.⁹ BSA E-Filing provides a fast, secure, convenient, and free method for submitting BSA reports.

4. Efforts to identify duplication.

As described in more detail below, FinCEN determines there are no Federal rules that directly or fully duplicate or overlap with the RRE Rule, or that require the reporting of the same information. Therefore, FinCEN determines there is no government source of information already available to FinCEN that is equivalent to the information required to be collected under the RRE Rule. Additionally, FinCEN determines there is no information commercially available that could be used or modified to fully provide the information collected under the RRE Rule.

FinCEN has reviewed government and commercial databases to identify duplication of

⁶ Public Law 104-13, 109 Stat. 163 (May 22, 1995), *codified at* 44 U.S.C. 3506(c)(2)(A).

⁷ See FinCEN, *Agency Information Collection Activities: Proposed Collection; Comment Request; Real Estate Report Notice and Request for Comment*, [89 FR 89700](#) (Nov. 13, 2024).

⁸ 31 CFR 1031.320(k). See *supra* note 5 at 70275-70276.

⁹ Other BSA reports include, for example, Suspicious Activity Reports (SARs) and Reports of Foreign Bank and Financial Accounts (FBARs). See FinCEN, BSA E-Filing System, "Supported Forms," <https://bsaefiling.fincen.treas.gov/SupportedForms.html>.

information about certain non-financed transfers of RRE to be reported under the RRE Rule, including several areas of possible or apparent partial duplication or overlap in other BSA reports, including, but are not limited to, beneficial ownership information (BOI) reports (as discussed below), and commercially available databases. FinCEN has determined that even if relevant information about certain non-financed transfers of RRE was collected and available in other BSA reports or commercially available databases, the information is either not sufficiently complete to be highly useful to law enforcement, or only available in limited circumstances and often without attributes indicative of potential money laundering. Below is a summary of FinCEN's efforts to identify duplication, and why there is no duplication.

First, although some of the same information that FinCEN seeks to collect under the RRE Rule is collected under existing Residential Real Estate Geographic Targeting Orders (RRE GTOs), the RRE GTO program is limited in scope and duration.¹⁰

Second, since the RRE Rule is only applicable to non-financed RRE transfers, the types of RRE activity subject to the RRE Rule would likely not be reported in other reports required under the BSA and FinCEN's implementing regulations.

Third, FinCEN is aware of no sources of duplicate information about non-financed transfers of RRE in the BOI reports required under the BOI Reporting Rule pursuant to the Corporate Transparency Act (CTA).¹¹ Under the BOI Reporting Rule, an entity that meets the definition of a "reporting company" is required to submit a BOI report to FinCEN that contains certain information, including BOI.¹² While a RER and a BOI report may contain similar information about the same entity involved a reportable transfer of RRE under the RRE Rule, "the information needed to ascertain money laundering risk in the residential real estate sector differs in key aspects from what is collected under the CTA, and, accordingly, the information collected under this rule differs from that collected under the CTA."¹³ For example, the BOI report does not include "information on the [RRE] market transactions of the beneficially owned legal entity."¹⁴ Moreover, the "scope of entities that are the focus of the [RRE Rule] is broader than the CTA, as certain types of entities, including most trusts, are not required to report under the CTA."¹⁵

¹⁰ See FinCEN, *FinCEN Renews Real Estate Geographic Targeting Orders* (Apr. 14, 2025),

<https://www.fincen.gov/news/news-releases/fincen-renews-residential-real-estate-geographic-targeting-orders>.

¹¹ See 31 CFR 1010.380; see also FinCEN, *Beneficial Ownership Information (BOI) Reporting Requirements Final Rule*, 87 FR 59498 (Sept. 30, 2022). On March 26, 2025, FinCEN issued an interim final rule entitled "Beneficial Ownership Information Reporting Requirement Revision and Deadline Extension" (IFR). The IFR revises the BOI reporting requirements in 31 CFR 1010.380 by exempting BOI reporting from domestic entities, or U.S. persons. The IFR also exempts BOI reporting by foreign entities, or foreign reporting companies, and their U.S. person beneficial owners. In the RRE Rule, FinCEN addresses the overlap in some of the information reported under the BOI Reporting Rule and the RRE Rule, but the RER and BOI reports are two distinct reports that serve different purposes and are not interchangeable. See *supra* note 5 at 70273-70274, and 70280. "While the [RRE Rule and BOI Reporting Rule] do align in the collection of the beneficial owner's name, date of birth, and address, they differ in two key respects: first, regarding the unique identifying number, the [RRE Rule] relies largely on [taxpayer identification numbers] instead of passport numbers; and second, the [RRE Rule] collects citizenship information, while the BOI Reporting Rule does not."

¹² See 31 CFR 1010.380(c)(1)(ii).

¹³ See *supra* note 5 at 70273 and 70280.

¹⁴ *Id.*

¹⁵ *Id.*

Fourth, FinCEN is also aware that certain covered financial institutions, such as banks, subject to FinCEN's 2016 rule regarding customer due diligence requirements (2016 CDD Rule)¹⁶ are required to collect certain information from legal entities that establish new accounts.¹⁷ However, while the 2016 CDD Rule requires the collection of information by financial institutions that, to some extent, overlaps with the scope of information collected under the RRE Rule, the 2016 CDD Rule does not require the reporting of this information to FinCEN and, for that reason, access by law enforcement and national security agencies to that information would be more limited than contemplated under the RRE Rule.¹⁸

Finally, although some information about residential real estate purchases may be separately available through other sources, such as state land registries, the availability of information about the beneficial owner(s) of legal entities and other details of the residential real estate transfer generally would not be available in those sources. Under the RRE Rule, law enforcement would be able to access this information in the RER, enabling the identification of potential money laundering involving residential real estate in a more timely and effective manner.

5. Methods to minimize burden on small businesses or other small entities.

To ensure the RRE Rule is appropriately tailored to small businesses and other small entities, the rule applies a limited and streamlined suspicious activity report (SAR) requirement on reporting persons.¹⁹ FinCEN has not imposed on these reporting persons the anti-money laundering and countering the financing of terrorism (AML/CFT) program and other BSA requirements applicable to other BSA-regulated financial institutions, such as banks.

As a means of mitigating burden on small businesses and other small entities, FinCEN describes in the RRE Rule a "reporting cascade" that would minimize burdens and prevent duplication of effort by potential reporting persons in the same residential real estate transfer, while minimizing the chance for reporting evasion by transferees.²⁰ The reporting cascade determines who, among the multiple real estate professionals that may participate in the closing of a given residential property transfer, must file the RER. To further minimize reporting burdens, FinCEN provides flexibility in the RRE Rule where a reporting person may agree with another person in the reporting cascade, such as the title insurance company, to file the RER on a reporting person's

16 FinCEN, *Customer Due Diligence Requirements for Financial Institutions* (CDD Rule), 81 FR 29398 (May 11, 2016).

17 See 31 CFR 1020.210 (CDD Rule for banks), 1023.210 (CDD Rule for broker/dealers), 1024.210 (CDD Rule for mutual funds), 1026.210 (CDD Rule for futures commission merchants and introducing brokers in commodities).

18 See, e.g., *supra* note 16 at 29401 (discussion of multipronged strategy in the implementing notice for the 2016 CDD Rule).

19 See *supra* note 5 at 70262.

20 See *supra* note 5 at 70270-70271. In the RRE Rule, FinCEN identified and described the seven roles that may be performed by a reporting person in the reporting cascade, briefly summarized here: (1) the person listed as the closing or settlement agent on the closing or settlement statement for the transfer; (2) the person that prepares the closing or settlement statement for the transfer; (3) the person that files with the recordation office the deed or other instrument that transfers ownership of the residential real property; (4) the person that underwrites an owner's title insurance policy for the transferee with respect to the transferred residential real property, such as a title insurance company; (5) the person that disburses in any form, including from an escrow account, trust account, or lawyers' trust account, the greatest amount of funds in connection with the residential real property transfer; (6) the person that provides an evaluation of the status of the title; and finally (7) the person that prepares the deed or, if no deed is involved, any other legal instrument that transfers ownership of the residential real property.

behalf.²¹ This flexibility is intended to enable small businesses, that otherwise might be especially burdened by the reporting requirement, to share the responsibilities and costs associated with RRE Rule compliance.²²

Additionally, FinCEN establishes a reasonable reliance standard in the RRE Rule that allows a reporting person to reasonably rely on information provided by other persons involved in the residential real estate transfer.²³ FinCEN does not require the reporting person to independently verify the information provided by other parties involved in the RRE transfer. FinCEN expects this reasonable reliance standard to be significantly less burdensome to small businesses and other small entities. Also, to limit potential burdens related to data storage costs and data security, the reporting person is not required to retain a copy of the RER form filed with FinCEN.²⁴

Moreover, FinCEN has found that the RRE Rule seeks information that is typically collected in the normal course of business. FinCEN concludes that no special accounting or legal skills would be necessary to comply with the RRE Rule.

In response to comments, FinCEN also has adopted a number of changes to the RER form that reduces the complexity of the reporting and filing process. For example, FinCEN has revised the RER form to be interactive, in either PDF or HTML format, where certain form fields will dynamically no longer appear when certain selections are made. These interactive features are intended to reduce the number of available form fields a reporting person would need to review. Additionally, FinCEN will be issuing separate RER form instructions and guidance that will further clarify the fields and terms used in the RER.

6. Consequences to the Federal government of not collecting the information.

The illicit finance risks in the real estate sector have long been recognized as a weakness in the U.S. AML/CFT regime. The illicit finance risk in the U.S. real estate sector was detailed in the U.S. Department of the Treasury's 2024 National Risk Assessments on Money Laundering,

21 See *supra* note 5 at 70272. "In the [RRE Rule], FinCEN adopts the allowance for designation agreements in 31 CFR 1031.320(c)(4)."

22 *Id.* FinCEN notes that the RRE rule "does not allow for third-party vendors who are not described in the reporting cascade to be designated as a reporting person, as such vendors are not financial institutions that can be regulated by FinCEN; a reporting person could outsource the preparation of the form to a third-party vendor, but the ultimate responsibility for the completion and filing of the report would lie with the reporting person."

23 See *supra* note 5 at 70263-70264. "In 31 CFR 1031.320(j), the final rule adopts a reasonable reliance standard that allows reporting persons to reasonably rely on information provided by other persons. As a result, the reporting person generally may rely on information provided by any other person for purposes of reporting information or to make a determination necessary to comply with the final rule, but only if the reporting person does not have knowledge of facts that would reasonably call into question the reliability of the information. [...] This reasonable reliance standard is slightly more limited when a reporting person is reporting beneficial ownership information of transferee entities or transferee trusts. As expressed in the proposed rule, and as adopted in the final rule, when a reporting person is collecting the beneficial ownership information of transferee entities and transferee trusts. In those situations, the reasonable reliance standard applies only to information provided by the transferee or the transferee's representative and only if the person providing the information certifies the accuracy of the information in writing to the best of their knowledge."

24 See *supra* note 5 at 70276. "The [RRE Rule] retains the requirement that certain records be kept for five years but limits the requirement to a copy of any beneficial ownership certification form that was provided to the reporting person, as well as a copy of any designation agreement. [The RRE Rule] does not require reporting persons to retain a copy of a Real Estate Report that was submitted to FinCEN."

Terrorist Financing, and Proliferation Financing.²⁵ The international AML/CFT standards-setting body the Financial Action Task Force (FATF) has likewise previously identified the vulnerabilities of the illicit finance risks in the U.S. real estate market, and recommended the United States take appropriate action to mitigate these risks.²⁶

Based on FinCEN's experience with the RRE GTO program and on the ongoing illicit finance risk in the RRE sector, FinCEN has determined that non-financed transfers of residential real property to certain types of legal entities or legal arrangements, such as trusts, pose a higher risk for money laundering than financed transfers, which are subject to scrutiny by the financial institution that provides financing. Further, due to the opacity often associated with legal entities and legal arrangements, non-financed RRE transfers present more investigative challenges for law enforcement and national security agencies than transfers of residential real property to individuals or natural persons. Law enforcement cases and prosecutions have established that criminal organizations purchase real estate through shell companies to hide their identities and launder money from illegitimate sources (*e.g.*, proceeds from drug trafficking).²⁷ In these instances, U.S. RRE is an ideal vehicle for illicit finance activities as the real estate market is generally perceived to be fairly liquid and stable, and even to appreciate over time. Prior to the RRE Rule, there were no effective mechanisms to counter these risks and promote increased transparency in the residential real estate sector nationwide, particularly with respect to non-financed RRE transfers

The timely reporting of certain information about non-financed RRE transfers—including beneficial ownership of legal entities and trusts purchasing residential real property, information about payments made, and information about the residential real property itself—will provide law enforcement with important investigative leads in order to take appropriate action, including tracing criminal proceeds, gathering additional evidence, seizing funds, and stopping the movement of illicit funds. Moreover, as a reporting person under the RRE Rule must submit a RER within a maximum of 61 days of a reportable residential real estate transfer, the RER will provide highly useful and timely information for law enforcement to detect and deter illicit finance or illegal activity, especially while the real estate transfer is fairly current and discernible.²⁸

In addition to law enforcement and national security concerns, FinCEN recognizes that money laundering through the RRE market can distort real estate development priorities and existing home prices, potentially making it more difficult for everyday Americans as legitimate buyers and sellers to participate in the market.²⁹

7. Special circumstances requiring data collection to be inconsistent with guidelines.

25 Treasury Press Release, *Treasury Publishes 2024 National Risk Assessments for Money Laundering, Terrorist Financing, and Proliferation Financing* (Feb. 7, 2024), <https://home.treasury.gov/news/press-releases/jy2080>.

26 Financial Action Task Force, *Anti-money laundering and counter-terrorist financing measures - United States Fourth Round Mutual Evaluation Report* (Dec. 2016), p. 3, <https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER-United-States-2016.pdf.coredownload.inline.pdf>.

27 See *supra* note 25.

28 See *supra* note 8.

29 See, *e.g.*, Richard Vanderford, "Fraudulent Covid Aid Drove Up U.S. House Prices, Report Says," *The Wall Street Journal* (June 22, 2023), <https://www.wsj.com/articles/fraudulent-covid-aid-drove-up-u-s-house-prices-report-says-bfef67fa>; see, *e.g.*, Novaro, R., Piacenza, M., & Turati, G., "Does money laundering inflate residential house prices? Evidence from the Italian provincial markets," *Kyklos* (2022), pp. 75(4), 672-691.

Under 31 CFR 1010.430(d), all records that are required to be retained by 31 CFR Chapter X must be retained for a period of five years. Records must be kept for five years because they may relate to substantive violations of law that are subject to statutes of limitation longer than three years. This retention requirement applies to records of beneficial ownership certification and designation agreements used for a given residential real estate transfer, if any.³⁰

8. Consultation with individuals outside of the agency on availability of data, frequency of collection, clarity of instructions and forms, and data elements.

As described earlier, FinCEN previously issued the RER 60-Day Notice to solicit public comment concerning the RER and FinCEN's estimate of the burden. FinCEN received 16 comment letters from real estate and legal industry organizations, transparency organizations, and individuals.³¹ Commenters expressed both support for and opposition to the RER, including opposition to some of its data fields. In general, transparency organizations supported the RER while trade groups and individuals involved in the RRE market opposed the RER and the RRE Rule.

In those comments, FinCEN received specific suggestions on improving the RER. Notably, FinCEN has made changes to the RER and the filing process to address a comment letter from a legal association, which stated that FinCEN did not provide in the 60-Day Notice an interactive PDF or the ability to preview the computer software or automated interface for "batch-filings," which would allow a reporting person to file several RERs in a consolidated fashion. In response, FinCEN has implemented a number of changes to the RER, which would be available upon the effective date, where certain form fields are automatically unavailable based on certain selections by a reporting person, thereby simplifying the process for completing the RER. FinCEN also ensured a reporting person, or designee, can "batch-file" the RERs.

In general, FinCEN has carefully considered all the comments received and, where appropriate, has made changes to the RER and the RER filing process. Where FinCEN has not adopted or revised the RER as suggested or requested by commenters, FinCEN intends to provide a reasoned and reasonably detailed explanation in the related 30-day notice.

9. Explanation of decision to provide any payment or gift to respondents.

No payments or gifts were made to respondents.

10. Assurance of confidentiality of responses.

The information collected will be made available to Treasury, its designee, and other authorized agencies, as are other reports required to be reported under the BSA. All such information collections under the BSA must be used by such agencies consistent with the purposes set forth in 31 U.S.C. 5311, including but not limited to furthering a criminal, tax, or regulatory investigation, risk assessment, or proceeding, or use in intelligence or counterintelligence activities, including analysis, to protect against terrorism.

³⁰ See *supra* note 24.

³¹ The comments can be found on www.regulations.gov under docket number FINCEN-2024-0019. See Regulations.gov, "Agency Information Collection Activities; Proposals, Submissions, and Approvals: Real Estate Reports" (Nov. 13, 2024), <https://www.regulations.gov/document/FINCEN-2024-0019-0001/comment>.

11. Justification of sensitive questions.

There are no questions of a sensitive nature in the collection of information, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. Any personally identifiable information collected under the BSA is strictly controlled as outlined in FinCEN's Privacy Act Systems of Records Notice for BSA reports.³²

12. Estimated hour burden of information collection.

FinCEN has considered the time burden associated with information collection to include the reporting and recordkeeping components of the total burden incurred by both the reporting person and, in cases where various participants in the reporting cascade entered into a designation agreement, the non-reporting persons to the designation agreement.

Estimates pertaining to the number of respondents and their reporting and recordkeeping costs set forth below should be considered as an upper bound of the anticipated potential burden. FinCEN has assumed that, in cases where transaction-specific details are variable and unknown, the maximum cost to the maximum number of potential additional participants is applied.

FinCEN estimates there may be up to approximately 172,753 potential reporting persons;³³ however, the majority of these potentially affected reporting persons may never file a RER due to the specific requirements in the RRE Rule.³⁴ For a RRE transfer subject to the RRE Rule requirements, only one reporting person is required to file the RER in the manner prescribed by the RRE Rule.³⁵ Thus, FinCEN calculates the burden of information collection on a per response rather than a per respondent basis.

Frequency: Once per reportable transaction.³⁶

Estimated Total Annual Responses: 850,000

FinCEN estimates the total annual responses based on a synthesis of publicly available and third-party sources of annual aggregate data with in-house analysis of records on new and existing

³² FinCEN, *Privacy Act of 1974, as Amended; System of Records Notice (FinCEN .002 - Suspicious Activity Report System)*, [79 FR 20969](#) (Apr. 14, 2014); FinCEN, *Privacy Act of 1974, as Amended; System of Records Notice (FinCEN .003 - Bank Secrecy Act Reports System)*, [79 FR 20969](#) (Apr. 14, 2014).

³³ This estimate is comprised of firms and their employees primarily engaged in business as defined by the following NAICS classifications (codes): Title Abstract and Settlement Offices (541191); Direct Title Insurance Carriers (524127); Other Activities Related to Real Estate (531390); Offices of Lawyers (541110); and Offices of Real Estate Agents and Brokers (531210).

³⁴ The types of businesses involved in a real estate closing or settlement vary depending on the type of transaction and on the jurisdiction, and so the cascade of real estate professionals in 31 CFR 1031.320(c) is itemized to capture a broad array of potential businesses. However, FinCEN estimates that, for any transaction, the functions described in the first three tiers of the cascade would be performed by only one business, with no other separate business performing the other two functions. FinCEN therefore treats the cascade as having five functional groupings, rather than the seven laid out in the rule.

³⁵ The date of closing means the date on which the transferee entity or transferee trust receives an ownership interest in the residential real property.

³⁶ The rule requires certain persons involved in real estate closings and settlements to submit reports on certain transfers of residential real property. The rule defines a reportable transfer as a non-financed transfer to a transferee entity or transferee trust of an ownership interest in residential real property, with certain exceptions.

homes, unimproved land intended for residential development, quit claims without financial consideration, and cooperatives.

Estimated Total Annual Burden Hours: 4,816,667 burden hours³⁷

Estimated Burden per Response:

Per Response Burden to Reporting Persons

FinCEN estimates that the reporting person, who must file the RER and be subject to a designation agreement, incurred a three-hour and 15-minute reporting burden and a recordkeeping burden of one hour and five minutes per response. Thus, FinCEN estimates the total burden to the reporting person per response to be four hours and 20 minutes.

Per Response Burden to Non-Reporting Persons

FinCEN determines the maximum number of non-reporting persons per response to be four.³⁸ FinCEN estimated this party to incur a 15-minute reporting burden and a five-minute recordkeeping burden, totaling 20 minutes in response time burden per non-reporting person; therefore, FinCEN estimates the total burden to non-reporting persons per response to be one hour and 20 minutes.

Total Burden per Response

FinCEN determines the total burden per response estimate based on the burden to the reporting person (four hours and 20 minutes) and to four non-reporting persons (one hour and 20 minutes). FinCEN finds the total time burden per response to be five hours and 40 minutes.

13. Estimated total annual cost burden.

Estimated Total Annual Reporting and Recordkeeping Cost: \$ 676,300,895.80³⁹

The first table below (Table 1) presents FinCEN's estimates of the various potential per-party per-transaction reporting costs associated with preparing and filing the RER. The second table below (Table 2) presents FinCEN's estimates of the various potential per-party per-transaction recordkeeping costs.

To estimate the reporting and recordkeeping costs conservatively, FinCEN assumes the maximum number of cascade participants in a given transaction (five) to be parties to the designation agreement and that the reporting entity would always be primarily employed by the

³⁷ 850,000 reportable transfers x 340 minutes, converted to rounded hours.

³⁸ See *supra* note 5 at 70283.

³⁹ 850,000 reportable transfers x \$780.69 in estimated total cost per reportable transfer, plus 172,753 respondents x 50 minutes per respondent x \$73.58 wage (\$88.30 per hour for 50 minutes), rounded to the nearest cent. \$88.30 is a composite wage based on the distribution of potential reporting persons as identified by primary occupation (Title Abstract and Settlement Offices: 3.6%; Direct Title Insurance Carriers: 0.5%; Other Activities Related to Real Estate: 10.9%; Offices of Lawyers: 9.3%; Offices of Real Estate Agents and Brokers: 75.5%). Differences between this estimated per-transaction cost and those presented subsequently are due to when rounding is performed.

candidate entity with the highest estimated wage rate (\$153.84/hr.).⁴⁰ Estimates also include a \$0.10 cost per record retained to capture the technology cost of retaining documentation electronically.

Estimated Total Annual Reporting Cost:

Table 1: Transaction Reporting Costs

| Estimated Per Transaction Reporting Costs | | Non-Reporting Party | | Reporting Party | | | |
|--|---------------------------------|-----------------------------------|--------------|-----------------------------------|--------------|---------------------------------------|--------------|
| | | <i>Designation-Related</i> | | <i>Designation-Related</i> | | <i>Designation-Independent</i> | |
| <i>Primary Business Categories</i> | <i>Fully Loaded Hourly Wage</i> | <i>Time (hours)</i> | <i>Total</i> | <i>Time (hours)</i> | <i>Total</i> | <i>Time (hours)</i> | <i>Total</i> |
| Title Abstract and Settlement Offices | \$79.35 | 0.25 | \$19.84 | 0.25 | \$19.84 | 3 | \$238.05 |
| Direct Title Insurance Carriers | \$106.49 | 0.25 | \$26.62 | 0.25 | \$26.62 | 3 | \$319.47 |
| Other Activities Related to Real Estate | \$81.74 | 0.25 | \$20.43 | 0.25 | \$20.43 | 3 | \$245.22 |
| Offices of Lawyers | \$153.84 | 0.25 | \$38.46 | 0.25 | \$38.46 | 3 | \$461.52 |
| Offices of Real Estate Agents and Brokers | \$81.74 | 0.25 | \$20.43 | 0.25 | \$20.43 | 3 | \$245.22 |

⁴⁰ This assignment is for estimation purposes only and is not intended to imply that FinCEN generally expects attorneys to be the reporting person for the average transaction.

Estimated Total Annual Recordkeeping Cost:

Table 2: Recordkeeping Costs Per Party

| Estimated Per Transaction Recordkeeping Costs | | Non-Reporting Party | | Reporting Party | | | |
|--|---------------------------------|----------------------------|---------------|----------------------------|---------------|--------------------------------|----------------------------|
| | | Designation-Related | | Designation-Related | | Designation-Independent | |
| <i>Primary Business Categories</i> | <i>Fully Loaded Hourly Wage</i> | <i>Time (minutes)</i> | <i>Total*</i> | <i>Time (minutes)</i> | <i>Total*</i> | <i>Time (hours)</i> | <i>Total* (unadjusted)</i> |
| Title Abstract and Settlement Offices | \$79.35 | 5 | \$6.71 | 5 | \$6.71 | 1 | \$79.45 |
| Direct Title Insurance Carriers | \$106.49 | 5 | \$8.97 | 5 | \$8.97 | 1 | \$106.59 |
| Other Activities Related to Real Estate | \$81.74 | 5 | \$6.91 | 5 | \$6.91 | 1 | \$81.84 |
| Offices of Lawyers | \$153.84 | 5 | \$12.92 | 5 | \$12.92 | 1 | \$153.94 |
| Offices of Real Estate Agents and Brokers | \$81.74 | 5 | \$6.91 | 5 | \$6.91 | 1 | \$81.84 |

* Total Recordkeeping cost estimates include both labor (wages) and technology costs (\$0.10)
Estimated Reporting and Recordkeeping Cost per Response:

Per Response Cost to Reporting Persons

FinCEN estimates that the reporting person, who must file the report and be a party to a designation agreement, incurred a three-hour and 15-minute reporting burden. FinCEN further estimates the reporting person incurred a recordkeeping time burden of one hour and five minutes per response and a \$0.20 technology cost.⁴¹ As such, FinCEN estimates the total cost to the reporting person per response to be approximately \$666.64.⁴²

⁴¹ When a designation agreement exists, FinCEN anticipates an additional \$0.10 recordkeeping cost distinct from the \$0.10 estimated recordkeeping cost associated with filing the RER.

⁴² Total may differ from tabular summation due to differences in when rounding is performed. The cost per response is the highest fully loaded wage rate (\$153.84) multiplied by the total reporting hours (four hours and 20 minutes).

Per Response Cost to Non-Reporting Persons

FinCEN determines the maximum number of non-reporting persons per response to be four.⁴³ FinCEN estimates each non-reporting person incurred a 15-minute reporting burden. FinCEN also estimated each non-reporting person incurred a five-minute recordkeeping time burden, as well as a \$0.10 technology cost associated with the designation agreement; therefore, FinCEN estimates the total burden to each non-reporting person per response to be 20 minutes and \$0.10. FinCEN assumes each non-reporting person to be paid an hourly wage that corresponded to a different primary business category, and assumes that the reporting person has already incurred costs at the highest wage rate, this implies the non-reporting person individual cost burdens are as follows: \$26.55 (Settlement Agents); \$35.60 (Title Insurers); \$27.35 (Other Real Estate Services); and \$27.35 (Real Estate Agents and Brokers).⁴⁴ Therefore, FinCEN estimates the total per response cost to all non-reporting persons to be approximately \$116.84.⁴⁵

Total Cost per Response

FinCEN estimates the total cost per response included the burden to the reporting person (\$666.64⁴⁶) and four non-reporting persons (\$116.84). FinCEN estimates the total cost per response to be, at maximum, approximately \$783.48.

14. Estimated annual cost to the Federal government.

To implement the rule, FinCEN expects to incur certain operating costs that would include approximately \$8.5 million in the first year and approximately \$7 million each year thereafter. These estimates include anticipated novel expenses related to technological implementation, stakeholder outreach and informational support, compliance monitoring, and potential enforcement activities, as well as certain incremental increases to existing administrative and logistic expenses. Technological implementation for a new reporting form contemplates expenses related to development, operations, and maintenance of system infrastructure, including design, deployment, and support, such as a help desk. It includes an anticipated processing cost of \$0.10 per submitted report.

15. Reason for change in burden.

FinCEN estimates a change in burden to include incremental costs unique to the RER and the filing mechanism by which reporting persons provided FinCEN with the information required by the RRE Rule. FinCEN estimates the total annual burden hours to be consequently increased by 212,500 hours from 4,604,167 hours to 4,816,667 hours. FinCEN bases these increases on the estimated time to complete, review, and transmit the RER from an initially projected 30 minutes to 45 minutes. In addition, FinCEN has added an annual one-time burden of 50 minutes per each 172,753 estimated reporting persons to account for technology and training time costs independent of transaction or reporting volume. FinCEN has added these additional burden hours in order to achieve a more accurate estimation of the total annual burden.

⁴³ See *supra* note 38.

⁴⁴ Numbers here may differ from tabular and RIA estimates at the 0.01 level due to differences in rounding.

⁴⁵ Total may differ from tabular summation due to differences in when rounding is performed.

⁴⁶ Assuming that the reporting person's primary occupation is in the offices of lawyers (*i.e.*, incurs the highest wage burden).

16. Plans for tabulation, statistical analysis, and publication.

The information will not be tabulated or compiled for publication.

17. Request not to display the expiration date of the OMB control number.

FinCEN requests that it not be required to display the expiration date so that the regulations and form will not have to be amended for the new expiration date every three years.

18. Exceptions to the certification statement.

There are no exceptions to the certification statement.