

# 20 Bachert

ATTN: Section 352-Real estate settlements

In response to FinCEN's request for comment from those "persons involved in real estate closings and settlements":

To the question; *What Are The Money Laundering Risks in Real Estate Closings and Settlements?* I do not feel that I am qualified to address this question other than to restate the obvious. That real estate provides an avenue for large exchanges of money.

To the question; *How Should Persons Involved in Real Estate Closings and Settlements Be Defined?* I think it would be best to first define them, then to separate them. FinCEN is accurate in it's list of the broad range of persons involved in even the simplest transactions, but efforts to define anyone beyond this point would not be necessary. The purpose of identifying "persons involved in real estate closings and settlements" is to find those persons most likely to be able to identify money laundering programs. Any person who would not be involved in most real estate transactions due to their simplicity would not be very effective as an anti money laundering agent. Although the list of persons involved in a real estate transaction, provided by FinCEN, is accurate; not all such persons would be likely candidates for use as anti money laundering agents. In order for a person to be effective in this capacity, they must be routinely involved in nearly all real estate transactions and take special care in those transactions which raise red flags. For this reason, attorneys, banks, mortgage brokers, and other financing entities would not be logical choices either. Financial institutions are not always involved nor are attorneys. A person wishing to launder money could easily avoid domestic financial institutions by paying cash and could enlist an attorney that would be sympathetic to if not a key element to their purpose. An appraiser, and inspectors would not be logical choices due to the nature of their role in the transaction. Those left are brokers, title insurance companies and escrow agents. Although a broker is present in a great many transactions, they are not present in all and if they were made the anti money laundering agents it wouldn't be difficult to bypass them in efforts to launder money. The most logical choices seem to be the escrow agents and title insurance companies.

To the question; *Should Any Persons Involved in Real Estate Closings or Settlements Be Exempted From Coverage Under 352?* As stated in my answer to the previous question, those who would not be involved in most real estate transactions would not be effective thus their efforts would be useless to thwart money laundering. In order to be most effective in this effort, all but the most logical choices should be exempted. Setting up too many layers of detection would only provide an element of confusion that is a conducive environment for money launderers to continue to use real estate as an effective means to launder money.

To the question; *How Should the Anti-Money Laundering Program Requirement for Persons Involved Involved in Real Estate Closings and Settlements Be Structured?* **SIMPLE!**