FINCEN REPORTING REQUIREMENTS FOR RESIDENTIAL REAL ESTATE TRANSFERS

February 10, 2026

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) enacted a rule known as the Anti-Money Laundering Regulations for Residential Real Estate Transfer Rule (the "Rule"). The Rule requires certain persons involved in real estate closings and settlements to report information to FinCEN regarding specified non-financed transfers of residential real estate to legal entities or trusts. The reporting requirement is designed to increase transparency in the U.S. residential real estate sector and to combat and deter money laundering. The reporting requirements of the Rule take effect on March 1, 2026.

The Rule requires reporting regarding certain residential transfers, defined as any transfer of an ownership interest in residential real property that is demonstrated through a deed or, for an interest in a cooperative housing corporation, through stock, shares, membership, a certificate, or other contractual agreement evidencing ownership. The transfer must be reported if the following requirements are met:

(1) Non-Financed Transfer: A transfer is non-financed if it does not involve a loan that is both (a) secured by the transferred property and (b) extended by a financial institution subject to Anti-Money Laundering (AML) program requirements and Suspicious Activity Report (SAR) reporting obligations. This includes transactions involving private financing and all cash transactions.

(2) Buyer is an Entity or Trust: The property is transferred to an entity (i.e. corporation, limited liability company, partnership, estate, or association) or a trust. A transfer is reportable if at least one transferee is a transferee entity or transferee trust; the Real Estate Report is only required, however, to include identifying information for the transferee entities or transferee trusts that are subject to reporting.

(3) Residential Real Property: The property is a transfer of residential real property. Residential real property includes 1-4 family dwellings including single family homes and townhouses, vacant land intended for residential use, condominium units and cooperative units.

(4) No Exemption or Exclusion: Exempt entities include banks, government agencies, and insurance companies and exempt trusts, including trusts managed by securities-reporting issuers, statutory trusts, and subsidiaries of exempt trusts. Excluded transfers include transfers as a result of inheritance; transfers incident to divorce; transfers that grant, transfer, or revoke an easement; transfers for no consideration made by an individual, either alone or with their spouse, to a trust of which that individual, that individual's spouse, or both are the settlors or grantors; transfers to a bankruptcy estate; 1031 exchanges; and transfers for which there is no reporting person.

For each reportable residential real estate transfer, the "reporting person" is responsible for filing the report. FinCEN applies a reporting cascade that assigns reporting responsibility based on the role performed in the transaction. Priority begins with the closing or settlement agent and, if that role is not present, moves down a defined list of functions, including preparing the settlement statement, recording the deed, underwriting the owner's title policy, disbursing the largest amount of funds, providing a title evaluation, or preparing the deed or other ownership instrument. The first party in this hierarchy that participates in the transaction becomes the reporting person. If none of these functions are performed, no report is required. Alternatively, parties involved in the transaction may use a written designation agreement to assign reporting responsibility to another eligible

participant in the reporting cascade. Designation agreements must be transaction-specific, in writing, and retained for five years, but they are not filed with FinCEN.

The Rule requires the reporting person to submit identifying information about the transaction and the parties involved. This includes identification of the reporting person; a description of the residential real property; identification of the transferor (seller); identification of the transferee entity or transferee trust; identification of individuals representing the transferee in the transaction; beneficial ownership information for the transferee entity or trust; and financial details of the transfer.

The reporting person can generally rely on information provided by others involved in the transaction, unless there is reason to question its reliability. However, beneficial ownership information must be obtained directly from the transferee or the transferee's representative and must be certified in writing as accurate to the best of that person's knowledge. The certification may be collected using the reporting person's own form and may be incorporated into existing closing documentation.

The Real Estate Report must be filed by the later of (a) 30 calendar days after closing or (b) the last day of the month following the month of closing.

Berger Singerman’s Real Estate Team remains dedicated to keeping you informed about significant regulatory developments that may impact your real estate transactions and closing procedures. As the March 1, 2026 effective date approaches, real estate professionals, developers, title agents, and settlement providers should begin evaluating their compliance obligations and internal processes. Should you have any questions or require guidance regarding how the Rule may affect your transactions, please contact Jeffrey R. Margolis.

Related Team Member(s)

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