



# FinCEN Residential Real Estate Reporting Rule Postponed Until March 1st, 2026

The Financial Crimes Enforcement Network (FinCEN) Residential Real Estate Reporting Rule targets non-financed (all-cash) transactions where residential real estate is transferred to legal entities (e.g., LLCs, corporations) or trusts.

Rationale: All-cash transactions involving entities or trusts have been identified as high-risk for money laundering activities due to the potential for anonymity.

FinCEN's Final Rule emphasizes the necessity of reporting such transactions to enhance transparency and deter illicit financial activities.

## Effective for transactions that close on or after March 1, 2026

- Closing is the date an ownership interest is received
- Files open now might be reportable if they close on March 1, 2026

### What to Report?

All non-financed/cash transfers of residential real estate where the transferee is an entity or trust subject to exceptions and exemptions

### Who must Report?

Typically, the settlement agent to the transactions but there is a cascade hierarchy structure, or you can have an agreement

### When do you Report?

The later of the last day of the month following "closing" or 30 calendar days after closing

### How do you report?

Electronically with FinCEN form called Real Estate Report

## Covered Transactions

### Residential property may fall within the parameters of the Rule in one of four ways:

1. It is real property located in the United States that includes a structure designed principally for occupancy by one to four families
2. It is land in the United States on which the transferee intends to build a structure designed principally for occupancy by one to four families
3. It is a unit designed principally for occupancy by one to four families within a structure on land located in the United States; and/or
4. It is a share in a cooperative housing corporation for which the underlying property is located on land within the United States

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## Excluded Transactions

### Specific Exclusions:

- **Easements:** Right to use land for a specific purpose without ownership transfer
- **Transfers Arising from Life Events:** Inheritance, divorce, or to a bankruptcy estate
- **Court-Supervised Transfers:** Transactions overseen by a court, ensuring legitimacy
- **1031 Exchanges:** Like-kind exchanges under Section 1031 of the Internal Revenue Code, facilitating tax-deferred property swaps
- **No Consideration Transfer to a Trust:** Individually, or with a spouse, to a trust where they are the settlor(s) or grantor(s)

## Reporting Requirements

The information that needs to be reported requires more information from many more parties than required from the previous GTOs.

### Basic information for Transferor and Transferee

- **Entities:** Full legal name, Trade name or dba, Complete address (Includes foreign addresses and a principal place of biz iUnS, if any), and unique Identification number (IRS TIN)
- **Trusts:** Full legal name like the title of the agreement establishing trust, Date of trust execution, Identification number
- **Individuals that are transferor:** Name, Date of birth, Address, and Identification number

### Property Details

- Legal description and address (If there is one)

### Transaction Details

- Total consideration paid, All payment methods (and date of transfer), The closing date, Name of any financial institution involved, and the name of payors on any wire, check or other type of payment

### Signing Individual Information

- Name, Date of birth, Address, and Identification number

### Beneficial Ownership Information

- Identities of individuals with significant control or ownership interests of entities

### Beneficial Ownership Information for Trusts:

- **Trustees:** Individuals or entities responsible for managing the trust
- **Beneficiaries:** Individuals entitled to benefit from the trust's assets
- **Trust Protectors:** Persons with oversight authority over the trustee's actions
- **Grantors with Revocation Rights:** Individuals who have established the trust and retain the right to revoke it



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## Who Files the Report?

Only one business would be deemed to be the reporting person and would be required to file a report. The reporting person can be identified in one of two ways:

1. By way of the reporting cascading hierarchy described, or
2. By way of a written "Designation Agreement" between the real estate businesses described in the cascading reporting order

## Hierarchy or Cascading of Reporting Responsibility:

1. **Closing or Settlement Agent:** Primary responsibility due to direct involvement in the transaction.
2. **Settlement Statement Preparer:** If no agent is designated, the individual preparing the settlement statement assumes responsibility.
3. **Deed Filer:** In the absence of the above, the person responsible for filing the deed.
4. **Title Insurance Underwriter:** Next in line if previous roles are unfilled.
5. **Largest Fund Disburser:** The entity disbursing the majority of funds in the transaction.
6. **Title Evaluator:** Person assessing the title's validity.
7. **Deed or Legal Instrument Preparer:** Responsible for drafting the transfer documents.

## Designation Agreements

Purpose and Function of the Agreements:

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| <b>Written Agreements:</b> Allow parties to designate a specific individual or entity as the reporting person. | <b>Flexibility:</b> Enables customization based on transaction specifics, ensuring clarity in reporting obligations. | <b>Compliance Efficiency:</b> Streamlines the reporting process, reducing the potential for oversight or duplication. |
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## Reasonable Reliance Standard

The final rule adopts a Reasonable Reliance Standard that generally allows reporting persons, whether when reporting information required by the final rule or when necessary to make a determination to comply with the rule, to reasonably rely on information provided by other persons.

### The Standard:

The Reasonable Reliance standard permits reporting persons to depend on information provided by other parties during a reportable transaction, provided there is no knowledge of facts that would reasonably question the reliability of that information.

### General Application:

Reporting persons can rely on details obtained from involved parties without independent verification, unless there are red flags or inconsistencies that suggest the information might be inaccurate.

**NOTE:** If relying on information provided regarding BOI, you must get certification in writing from the transferee or their authorized representative.



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## Practical Limitations and Record-Keeping

**Due Diligence:** While the standard allows reliance on provided information, reporting persons should remain vigilant. If you suspect the information might be false or misleading, further investigation is likely needed.

**Record-Keeping Requirements:** A reporting person shall maintain a copy of any certification of beneficial ownership details, for a minimum of five years. All parties to a designation agreement are required to maintain a copy.

## ALTA Collection Forms

### Buyer's Collection Form

<https://www.alta.org/file/ALTA-FinCEN-Buyer-Collection-Form-v-10-fillable>

### Seller's Collection Form

<https://www.alta.org/file/ALTA-FinCEN-Seller-Collection-Form-v-10>

## Things to Consider:

- When and how to send and collect from customers?
- How to ensure timely return?
- Where are you going to store the completed forms?
- What will your quality control process look like?
- Attestations

## Frequently Asked Questions

### Residential Real Estate Reporting Rule:

<https://www.federalregister.gov/public-inspection/2024-19198/anti-money-laundering-regulations-for-residential-real-estate-transfers>

### Residential Real Estate Reporting Rule Frequently Asked Questions:

<https://www.fincen.gov/sites/default/files/shared/RREFAQs.pdf>