

FinCEN Residential Real Estate Reporting Rule

Effective March 1, 2026 - FAQs



Below are some recent questions received regarding the new FinCEN Real Estate Reporting (RRE) Rule, effective March 1, 2026. As always, it is a best practice to consult your agency's legal counsel with any specific questions or scenarios. We anticipate additional information to be forthcoming from FinCEN that may affect some answers below. Refer to FinCEN's RRE website and our FinCEN Hub for updates.

Applicability & Definitions

Q: Does the rule cover residential vs. commercial (e.g., LLC buying an office building)?

A: The rule applies to transfers of residential property as defined in the rule.

Q: What counts as “residential real estate”? (e.g., poultry farm + mobile home for foreman)

A: Reportable if it fits: (i) a 1–4 family structure; (ii) land with intent to build 1–4 family; (iii) a 1–4 family unit (condo/co-op); or (iv) co-op shares.

Q: Are commercial properties included? What about mobile homes on leased land?

A: Commercial is out unless the property meets the residential definition; planned commercial use isn't a carveout. Mobile homes may be reportable if they meet the residential definition.

Q: A “commercial” building to be used for residential housing—covered?

A: Potentially yes; mixed-use can still qualify.

Q: Does Texas’s “Residential Real Property” definition control?

A: No. Use the federal FinCEN definition.

Q: Is there a time limit for building a structure, i.e., must the Buyer begin building within a certain time?

A: As long as there is an intent to build a structure that meets the definition of residential real estate, it is reportable.

Q: Is the rule finalized?

A: Yes.

Q: When is it effective, and are the GTOs still in effect?

A: Effective for closings on March 1, 2026; GTOs are still in effect until March 1, 2026, when the new RRE rule will replace the prior GTOs

Exemptions & Court-Supervised Scenarios

Q: Deed-in-lieu to a bank—exempt?

A: Exempt if the transferee bank has AML/SAR obligations.

Q: Judicial foreclosure or sheriff's sale—exempt?

A: Yes (court-ordered/supervised).

Q: Non-judicial trustee sale—exempt?

A: No; not court-supervised.

Q: Tax sale—reportable?

A: Not reportable if it results from a judicial order.

Q: Transfers resulting from death (estate/trust distribution)—exempt?

A: Yes, as specified in the rule.

Q: Funding a revocable trust by the individual/spouse for no consideration—exempt?

A: Yes.

Q: Are private utilities or non-profits (i.e. churches) exempt?

A: No. Private utilities and non-profit entities (or non-profit trusts) do not currently have an exemption.



Q: Third-party relocation company - exempt?

A: Relocation companies are not specifically exempt. But if their parent company is exempt due to being a publicly traded company, the relocation company may be exempt.

Q: Seller-financed deals involving the Amish community - report?

A: The IRS, which is also a part of the Department of Treasury, has created a process for obtaining a limited SSN number that overcomes the religious objections. More information is available at: <https://secure.ssa.gov/poms.nsf/lnx/0110225035>

Financing Status (What Makes it “Non-Financed”?)**Q: If any transferee receives financing from an AML/SAR-obligated lender, is it reportable?**

A: No. If any transferee's financing is AML/SAR-obligated, the transfer isn't "non-financed."

Q: Hard money/private money/seller financing/PMM between buyer and seller—reportable?

A: Generally yes; these typically lack AML/SAR programs. Some seller financing would benefit from an exemption for the requirement to comply with the SAFE ACT for NMLS+R registration but would still be a reportable transaction under this rule.

Q: FDIC-insured lender involved—reportable?

A: No; such financing is AML/SAR-obligated.

Q: How do we confirm a lender has AML/SAR obligations?

A: Ask the lender and rely on their representation unless you have reason to doubt(reasonable-reliance standard).

In discussing reasonable reliance the rule says: "a reporting person may rely on the information provided by the relevant lender extending credit secured by the underlying residential real property as to whether the lender has an obligation to maintain an AML program and an obligation to report suspicious transactions under 31 CFR Chapter X, provided the reporting person does not have reason to question the lender's information(e.g., if the lender were to represent that he (as a natural person) is subject to AML obligations)" as an example of a situation where the lender most likely does not have an AML/SARs program. 89 F.R. 70264.



Q: What if less than all transferees obtain an extension of credit?

A: If any transferee in the transaction receives financing, that meets the two criteria(secured by the property and extended by a financial institution with AML obligations),then the transfer would not be considered “non-financed). If there is a mortgage from a lender that has an AML requirement then the whole transaction is not reportable, and the settlement agents does not need to report on any **amount of funds**.

1031 Exchanges

Q: Which 1031 transfers are exempt vs. reportable?

A: Transfers to the Qualified Intermediary where the QI is taking title to the real property (compared to just holding the funds) are exempt; transfers from the QI to an entity or trust may be reportable if otherwise in scope.

FinCEN's discussion states: "Finally, the final rule adopts an exception, at 31 CFR 1031.320(b)(2)(vii), for transfers made to qualified intermediaries for purposes of effecting 1031 Exchanges. Such exchanges are commonly conducted to defer the realization of gain or loss, and, thus, the payment of any related taxes, for federal income tax purposes. This exception is limited to transfers made to the qualified intermediary; transfers from a qualified intermediary to the person conducting the exchange (the exchanger) remain potentially reportable if the exchanger is a legal entity or trust." 89 FR 70268-9.

Trusts, Entities & Beneficial Ownership

Q: Is an estate considered an entity? A: The rule states a reportable transfer does not include a “[t]ransfer resulting from death of an individual, whether pursuant to the terms of a decedent’s will or the terms of a trust, the operation of law, or by contractual provision.” 31 C.F.R. §1031.320(b)(2)(ii). So the question is whether the transfer to the entity or trust is pursuant to the actual terms within the decedent’s will or trust. The beneficiary always can have their attorney make the determination whether pursuant to the terms of the will or trust this would be a reportable transaction or exempt.

Q: Which trust beneficiaries are “beneficial owners”? Are contingent/minor beneficiaries included? A: Only beneficial owners at the time of transfer (e.g., a sole permissible recipient or someone who can demand substantially all assets). Not all beneficiaries are BOs. A beneficiary is a beneficial owner when they are the sole permissible recipient of the income/principal from the trust or if they have the right to demand a distribution or withdrawal of substantially all the assets. The question hinges on whether a beneficiary has the ability to move assets or force the sale or transfer of assets in or out of the trust.

It is always prudent to have the attorney for the trust certify the answer to the reporting person.

Q: If the settlor is deceased, are they still a beneficial owner?

A: No; BO status depends on a retained revocation right.

Q: Do we report trustees/protectors/beneficiaries or just signers?

A: It is not about who is signing – report all beneficial owners and also report any signing individual (as defined in the rule).

Q: Do we report everyone or only members with ≥25%? What about multiple officers (CEO/CFO/etc.)?

A: Report all ≥25% equity holders and anyone with substantial control. If several people have substantial control, report them all.

Q: What is “substantial control”?

A: An individual exercises substantial control over an entity if they serve as a senior officer, have authority over the appointment or removal of a senior officer or a majority of the board of directors, have substantial influence over important decisions, or have any other form of substantial control over the entity. 31 C.F.R. § 1010.380(d)(1).

Q: No one owns ≥25%—is it still reportable?

A: Yes. There will still be individuals with substantial control and possibly a signing individual to report.

Q: Layered entities (LLC owned by an LLC)—covered?

A: Potentially yes; report the entity taking title and apply BO/control rules.



Q: Successor trustee named while the current trustee still serves—report?

A: No. Report the current trustee(s) only.

Q: Individual purchases in their individual name then transfers to LLC or trust for no consideration -report?

A: Yes - still report. Note that there is an exemption for spouses for estate planning purposes. 31 C.F.R. §1031.320(b)(2)(vi). However, there is no similar exemption for a gratuitous transfer to an entity or non-exempt trust. There is no exemption for family trusts where the settlors/grantors are not married or trusts where the original settlor/grantor has died. For a discussion of this rule, see page 35 of the final rule. 89F.R. 70270.

Q: We do not ask for a copy of the trust in our transactions. How do we know who the beneficiaries are? A: That information will need to be obtained from the parties.

Reportable Scenarios and Examples

Q: Quitclaim between sister entities with no consideration and minimal deed tax—reportable

A: Yes, if no other exemption applies; there is no dollar threshold.

Q: Refi where a trust deeds out/in with no consideration because lender won't lend to the trust—reportable?

A: Yes, if no other exemption applies; no threshold.

Q: Gift/courtesy deed into an entity or trust (no closing, no money)—reportable?

A: Yes, if no other exemption applies; no threshold.

Q: Individuals quitclaiming to a trust or entity, or a revocable trust to another trust (no money)—reportable?

A: Yes, if no other exemption applies; no threshold.

Q: Owner transferring existing property to a single-member LLC (no consideration)—reportable?

A: Yes, if no other exemption applies; no threshold.



Q: Raw land bought by a builder or non-profit (cash) with intent to build homes—reportable?

A: Yes; intent to build qualifying residences is covered. Non-profits aren't blanket-exempt.

Q: Capital contribution into an LLC/Corp—reportable?

A: Reportable only if a deed or similar instrument transfers title.

Q: Do we report on both sale and purchase, or just the sale?

A: Report qualifying deeded transfers to entities or trusts when the deal is non-financed under the rule

Q: What if you receive a contract in which they paid "outside of closing" but only paying for closing and title policy, so cash transaction? Reportable?

A: Yes, if no other exemption applies. There is no threshold like there was with the Geographic Targeting Orders that pre-dated this new rule. FinCEN states: "Furthermore, the rule does not adopt suggestions to include a dollar threshold for reporting. Low-value non-financed transfers to legal entities and trusts, including gratuitous ones for no consideration, can present illicit finance risks and are therefore of interest to law enforcement." 89 F.R. 70269.

Q: Courtesy recordings...A couple or individual transfers their property into a LLC for no consideration. We prepared the transfer forms and are doing the recording of the deed. There isn't a "Buyer" - reportable?

A: Yes. The rule does not refer to buyers and sellers, it requires reporting of transferors and transferees. In this hypothetical, the couple or individual (the transferors) transfer to an LLC (the transferee). This would be a reportable transaction.

Reporting Mechanics, Roles & Timing

Q: Who is responsible for filing? Can we designate someone?

A: Follow the rule's reporting cascade. You can designate and authorize specific individuals; decide early and document designation per transaction.

Q: Title-only issuing agent (no settlement role)—must we report?

A: Not if a party above you in the cascade is filing, but ensure the filing occurs.



Q: Customer prepares/records deed with no closing—are we responsible?

A: Determine your position in the cascade. If you rank above the deed filer, you may be responsible; consult counsel as needed.

Q: Escrow-only (no title insurance)—still covered?

A: Title insurance is not required for the rule to apply.

Q: Does the escrow officer need to file or can we designate a post-closer or another team member to be the reporter through the written agreement?

A: You should be able to give team members the ability to file the report. Multiple individuals within an organization can file FinCEN Real Estate Reports, as long as they are properly authorized and meet the requirements for reporting. The organization itself(e.g., a title company, law firm, or settlement agency) is considered the reporting entity. Within that entity, any designated individual can submit the report, provided they have access to the required information and are acting on behalf of the organization.

Q: How early can we collect the required information?

A: There's no limitation.

Q: Must decide who is reporting at the very beginning of the file being opened?

A: It will be easier for information gathering if the reporting person is determined early in the transaction.

Q: Are monthly “no activity” reports required?

A: No. You only file when a qualifying transfer occurs.

Q: Could "Deed Filer" put obligation on the Registrar of Deeds or Town Clerk who is accepting the deed for recording and indexing it, etc., if people walk in to record a deed with no settlement agent involved?

A: No, the obligation is on the person that files with the office, not the official in the office completing the filing.

Q: I fill out and have a third-party company file the FinCEN reports. Do I need a designation agreement for each transaction for that company to file?

A: Yes, a separate designation agreement for each transaction is required if someone else on the reporting cascade files for you.



Q: Are you anticipating any basic agreement between settlement agents in split title states, as to which one reports?

A: Typically, the Buyer Side would report. 89 F.R. 70271. However, if there are multiple parties within the reporting cascade, a company further down the list of the cascade could agree to submit the report provided that both parties enter into an appropriate written designation agreement.

Data to Collect & Confidentiality

Q: Do we collect IDs for Sellers? Which identifiers are acceptable?

A: Collect Seller Date of Birth. Use TIN/SSN for U.S. persons; for non-U.S. individuals, use passport number and issuing jurisdiction. Information will need to be collected for both transferors and transferees.

Q: Which address must be reported?

A: Report the address of the property being transferred and current addresses for the transferee and transferors.

Q: Are electronic copies acceptable?

A: Yes.

Q: Can we upload a filled PDF rather than re-keying data?

A: Expected to be allowed; final government mechanics are pending.

Q: Does attorney-client privilege apply to the report contents?

A: FinCEN stressed in the comments to the rule that the reporting rule requires only objective transactional information, not privileged legal communications or strategies.

Q: Are reports public (FOIA/subpoena)?

A: FinCEN has stated in the rulemaking that the new real estate reports will be treated the same way as SARs: they will not be available to the public through FOIA.

Funds & Payments

Q: Down payment paid directly to the Seller—do we report it?

A: Yes. Report all funds used to purchase the property.

Q: Escrow deposit comes from a Listing Agent—how is that handled?

A: Include it within the required reporting of funds used to purchase.

Q: Buyer wires from an LLC/company account in a cash purchase—impact?

A: Report all funds used to purchase, regardless of account ownership.

Penalties & Compliance

Q: If a party refuses information, can we file incomplete? A: No. Incomplete reports are not permitted. Failure to file can result in substantial fines and/or up to 5 years imprisonment for the "Reporting Person." The rule states in the comments "[t]he final rule does not authorize the filing of incomplete reports, and a reporting person who fails to report the required information about a reportable transfer could be subject to penalties." 89 F.R. 70264. The Residential Real Estate Report is a type of Suspicious Activity Report. FinCEN has also told ALTA and other land title associations that filing a Suspicious Activity Report is not a solution if the Buyer or Seller refuses to provide you information.

Q: Are there fines for late reports (e.g., beyond 30 days)?

A: Failure to file when due can result in substantial fines and up to 5 years imprisonment.

Q: Is there a penalty for reporting a transaction that turns out to be exempt?

A: No.

Q: Do you have to report if you have no transactions during a given month or reporting period that qualified as a FinCEN transfer?

A: No, you only need to report if you have qualified transactions to report.

Forms & Industry Notes

Q: TLTA vs. ALTA forms; do we need state-specific forms? A: The federal report is required. ALTA forms may be used to collect information but are not mandatory.

Q: Should title commitments include FinCEN language whenever a lender is involved?

A: Use the FinCEN language when the lender has AML/SAR obligations; some firms adopt a best practice to add the FinCEN language in all commitments involving residential property.

Q: Is ALTA seeking to delay implementation?

A: ALTA has asked FinCEN to consider delaying or halting implementation.

Q: Why do we think the seller's date of birth and social security number is part of the RRE with the stated intent of identifying laundered money or terrorism activity on the part of buyers?

A: FinCEN is interested in tracing the full chain of ownership and the flow of funds, therefore it is interested in collecting the Sellers information.

Q: Will there be an affidavit the transferee will need to sign to state all is information provided is accurate?

A: The ALTA certification forms contain certifications at the end certifying that all the information is correct. While you don't need to use those forms, it is recommended that you certify the information being collected. However, the rule only requires the certification of the beneficial ownership information being collected.