

Update on FinCEN's Residential Real Estate Reporting Rule

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Beginning on March 1, 2026, real estate professionals involved in residential closings will be required to comply with new mandatory reporting requirements under the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN") Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule (the "Residential Real Estate Reporting Rule").

The Residential Real Estate Reporting Rule, originally set to take effect on December 1, 2025, will now become effective on March 1, 2026, pursuant to an Exemptive Relief Order issued by FinCEN to allow the industry sufficient time to institute the policies, procedures, and processes necessary for compliance.

Transfers Subject to Reporting

The Residential Real Estate Reporting Rule applies only to transfers of residential real estate in the United States (including Puerto Rico) to a legal entity or trust, but excluding certain exempt entities such as governmental authorities, banks, and insurance companies, and where the transaction does not involve financing from a financial institution subject to BSA anti-money laundering program requirements. The Residential Real Estate Reporting Rule does not apply to transfers made solely to individuals.

Property Subject to the Residential Real Estate Reporting Rule

For purposes of the Residential Real Estate Reporting Rule, residential properties include single-family homes, condominiums, cooperative housing units, and properties designed for occupancy by one to four families. There is no minimum purchase price; reportable transfers must be disclosed even if no monetary consideration is exchanged (e.g., gifts, capital/equity contributions).

Triggering Criteria

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The reporting requirement applies when all of the following are true:

- The property is residential real estate (e.g., single-family, condo, townhome, co-op);
- The transaction is non-financed (i.e., no loan from a regulated financial institution);
- Any transferee is a legal entity or trust (even if an individual is also a transferee); and
- No exemption applies to the transferee or the transaction.

What Needs to Be Reported?

The report under the Residential Real Estate Reporting Rule must include:

- Details of the property and transaction – to identify the real estate and the date of closing.
- Information on both the transferor and transferee – legal names, addresses, identification information and taxpayer or employer identification numbers.
- Payment details – total value or purchase price of the transfer and how it was provided (gift, wire, cash, digital assets, equity securities, etc.).
- Personal information on each beneficial owner of the transferee
 - A beneficial owner is any individual who, directly or indirectly:
 - Exercises substantial control over the transferee entity or trust; or
 - Owns or controls at least 25% of the entity's or trust's ownership interests.
 - For each beneficial owner of the transferee, the report must include:
 - Full legal name
 - Date of birth
 - Taxpayer Identification Number (TIN)
 - Residential address

Who Must Report?

Only one business or professional involved in the transaction is responsible for filing the report under the Residential Real Estate Reporting Rule (the "Reporting Person"). The Reporting Person must be engaged in the United States (including Puerto Rico) as a business in the provision of real estate

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closing and settlement services.

Responsibility is determined based on a reporting obligation order which prioritizes certain functions performed in the transaction (the "Reporting Cascade"). The Reporting Person is the first party in the Reporting Cascade who performs the designated function in that sequence. If no one performs the function at the first reporting level, the obligation falls to the next person performing the following function in the sequence, continuing in order as necessary. Attorneys or notaries may be Reporting Persons if they perform any of the designated functions. The Reporting Cascade follows this order:

- Closing/Settlement Agent – The person listed as the closing or settlement agent on the closing or settlement statement.
 - If none, Closing/Settlement Statement Preparer – The person who prepares the closing or settlement statement.
 - If none, Deed/Instrument Filer – The person who files the deed or other instrument transferring ownership with the recordation office.
 - If none, Title Insurance Underwriter – The person underwriting an owner's title insurance policy for the transferee.
 - If none, Funds Disperser – The person disbursing the greatest amount of funds in connection with the transfer.
 - If none, Title Evaluation Provider – The person providing an evaluation of the title status.
 - If none, Deed/Instrument Preparer – The person preparing the deed or other legal instrument transferring ownership.

Alternatively, the person otherwise responsible under the Reporting Cascade may enter into a written designation agreement with another person who performs a function in the Reporting Cascade, designating such person as the Reporting Person. The obligation may not be assigned to someone who does not perform a function in connection with the transaction.

Deadline

Reports must be filed electronically with FinCEN through its e-filing system within 30 calendar days of the closing, or no later than the last day of the month following the month in which closing occurred, whichever is later.

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Record-keeping

Reporting Persons must retain key records, such as beneficial ownership certifications, for five years from the date of filing.

Penalties for Non-Compliance

Failure to comply with the Residential Real Estate Reporting Rule may result in civil penalties of up to \$108,489 for negligent violations, and criminal penalties of up to \$250,000 and/or five years' imprisonment for willful violations. Additional monetary fines may also apply depending on the facts of the violation, consistent with the BSA penalty framework.

Next Steps for Real Estate Professionals

If you are involved in residential real estate transactions—particularly in title, escrow, legal, or settlement roles—the Residential Real Estate Reporting Rule will affect your compliance obligations starting **March 1, 2026**. Now is the time to:

- **Review** FinCEN's draft Real Estate Report Forms.
- **Assess** your transaction workflows.
- **Flag** transactions likely to trigger reporting.
- **Update** client intake and documentation procedures.
- **Train** staff to identify and collect required data.
- **Prepare** designation agreements to assign reporting responsibility.
- **Stay alert** for further FinCEN guidance or changes to the relief period.

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