

FinCEN rule targets all-cash residential real estate deals involving entities and trusts

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What do you need to know?

- A new federal rule requires mandatory reporting to FinCEN for all-cash residential real estate transactions involving legal entities or trusts, but not direct individual buyers.
- The rule targets non-financed (all-cash or privately financed) transfers of residential property to entities or trusts, with specific exemptions for certain regulated entities, trusts, and routine transfers.
- Real estate professionals involved in closings must identify the reporting party, collect detailed beneficial ownership information, and file reports within 30–60 days, while updating processes and training staff to ensure compliance.

A new nationwide anti-money laundering rule introduces mandatory reporting to the U.S. Department of Treasury's FinCEN (Financial Crimes Enforcement Network) for specific all-cash residential real estate transactions involving legal entities and trusts.

This regulation, known as the "Anti-Money Laundering Regulations for Residential Real Estate Transfers" (<https://bit.ly/3USTNYJ>), will go into effect on Dec. 1, 2025.

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Importantly, the rule does **not** apply to transfers made directly to individuals; it is triggered only when the transferee is a legal

entity (such as a corporation, LLC, partnership, or estate) or a trust. All-cash and non-bank financed transactions are the primary focus of the new rule as they present higher risks for money laundering.

The new rule directly impacts a range of real estate professionals and businesses involved in closings and settlements, including settlement agents, title insurance companies and agents, escrow agents, attorneys involved in closings, and other professionals performing specified functions in the transfer process.

FinCEN has published a fact sheet (<https://bit.ly/466qEhX>) and FAQs (<https://bit.ly/4lPhDzn>) on the new rule.

What constitutes a reportable transfer?

A transfer is considered reportable under the new rule if it meets four specific criteria:

- (1) **Property type:** The transaction involves residential real property in the U.S. This includes single-family homes, townhouses, condominiums, and cooperative units. Importantly, it also covers entire apartment buildings designed for one to four families, as well as vacant land where the transferee intends to build a residential structure. Even mixed-use properties with a residential component can be subject to the rule.
- (2) **Financing:** The transfer must be non-financed. This means the transaction does not involve a loan from a financial institution that has AML program and Suspicious Activity Report (SAR) obligations. All-cash sales are a prime example. The rule also treats transactions financed by a private lender without such obligations as non-financed, making them potentially reportable.
- (3) **Transferee:** The recipient of the property must be a transferee entity or a transferee trust. A transferee entity is a corporation, partnership, LLC, or similar legal vehicle. A transferee trust includes most trusts and similar foreign legal arrangements. There are specific exemptions for highly regulated entities, such as banks, insurance companies, public utilities, and entities registered with the

Securities and Exchange Commission under the Securities Exchange Act of 1934. Similarly, some trusts, like statutory trusts and those where the trustee is a securities reporting issuer, are exempt.

- (4) **No applicable exemption:** The transaction cannot fall under one of the specified exemptions. The rule outlines several non-reportable transfers, including those resulting from death, divorce, bankruptcy, or court supervision. A qualified intermediary for a like-kind exchange under Section 1031 of the Internal Revenue Code is also exempt.

Who is the 'reporting person'?

Only one business or professional is responsible for filing the Real Estate Report for each transaction. The "reporting person" is determined by a cascade system:

- (1) The person listed as the closing or settlement agent on the closing/settlement statement.
- (2) If none, the person who prepares the closing/settlement statement.
- (3) If none, the person who files the deed or other instrument with the recordation office.
- (4) If none, the person underwriting the owner's title insurance policy.
- (5) If none, the person disbursing the greatest amount of funds in connection with the transfer.
- (6) If none, the person providing an evaluation of the title status.
- (7) If none, the person preparing the deed or other legal instrument transferring ownership.

Alternatively, professionals involved in the transaction may enter into a written designation agreement to assign reporting responsibility to another party in the cascade.

What must be disclosed?

The reporting person must file a Real Estate Report with FinCEN containing information identifying the reporting person, details of the residential real property being transferred, information about the transferor (seller), information about the transferee entity or trust, and identities of individuals representing the transferee entity or trust in the transaction.

The Beneficial Ownership Information (BOI) for the transferee entity or trust includes the name, date of birth, residential address, citizenship, taxpayer identification number, and total consideration paid for the property and details of payments made.

- **For entities:** Any individual who, directly or indirectly, exercises substantial control over the entity or owns/controls at least 25% of its ownership interests.
- **For trusts:** Any individual who is a trustee, has authority to dispose of trust assets, is a beneficiary with the right to

demand or withdraw substantially all assets, is a grantor/settlor with revocation rights, or is the beneficial owner of an entity/trust holding one of these positions.

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The report must be filed no later than 30 calendar days after the date of closing, or the last day of the month following the month in which the closing occurred, whichever is later. This gives reporting persons a period of 30 to 60 days. Reporting persons are required to retain copies of any designation agreements and written beneficial ownership certifications for five years. However, they are not required to keep a copy of the actual FinCEN report itself.

Exemptions: What transactions are not reportable?

The rule provides several exemptions for lower-risk or routine transfers, including:

- Grants, transfers, or revocations of easements.
- Transfers resulting from death (by will, trust, operation of law, or beneficiary designation).
- Transfers incident to divorce or dissolution of marriage/civil union.
- Transfers to a bankruptcy estate.
- Transfers supervised by a U.S. court.
- Transfers for no consideration by an individual (alone or with spouse) to a trust of which they or their spouse are the settlor/grantor.
- Transfers to a qualified intermediary for a like-kind exchange under Section 1031 of the Internal Revenue Code.
- Transfers for which there is no reporting person.

Additionally, certain regulated entities and trusts are exempt as transferees, including:

- Securities reporting issuers.
- Governmental authorities.
- Banks, credit unions, depository institution holding companies.
- Money services businesses.
- Broker-dealers, securities exchanges, clearing agencies.
- Insurance companies and state-licensed insurance producers.

- Commodity Exchange Act registered entities.
- Public utilities, financial market utilities, registered investment companies.
- Subsidiaries of exempted entities or trusts.

Conclusion

The new rule continues a trend in the federal government's increased efforts to combat money laundering and financial crimes. Historically, the U.S. residential real estate market has been susceptible to exploitation by illicit actors seeking to launder money through all-cash transactions often using legal entities or trusts to obscure their identities.

Most routine transfers to individuals are not covered, but transfers to entities or trusts should be carefully reviewed for applicability and exemptions. All professionals involved in closings and settlements of residential real estate to entities or trusts should familiarize themselves with the rules, assess their exposure, and prepare for reporting and recordkeeping obligations.

Real estate professionals should begin reviewing their transaction processes, updating closing documentation, and training staff to ensure compliance by the effective date of Dec. 1, 2025.

About the authors



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