

FinCEN and the New Anti-Money Laundering Rule



Residential Real Estate Reporting – Effective March 1, 2026

The Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury, has issued a nationwide Anti-Money Laundering (AML) reporting rule requiring certain non-financed residential property transfers to legal entities or trusts to be reported. Beginning March 1, 2026, designated real estate and settlement professionals must file a Real Estate Report with FinCEN for these higher-risk transactions. **Together, Central FinCEN Reporting and Key Title Group work together to ensure full FinCEN compliance for reportable transactions. Read on to learn which transactions are reportable, how the rule applies, and what information is required to ensure compliance.**

A transfer is reportable when all three conditions are met:

1. The real property is residential;
2. The transfer is non-financed;
3. The property is transferred to a certain type of entity or trust

Definition of Residential Real Property:

A property meets the definition of **residential real property** if it is located in the United States and the property is:

- Real property containing a structure designed principally for occupancy by one to four families;
- Land on which the transferee intends to build a structure designed principally for occupancy by one to four families;
- A unit designed principally for occupancy by one to four families within a structure on land; or
- Shares in a cooperative housing corporation.

What Qualifies as a Residential Transfer of Real Property?

A **transfer of residential real property** means any change in ownership of the property interest, such as through:

- A deed (e.g., sale deed, quitclaim, etc.)
- Change in ownership of a cooperative housing share/certificate
- The transfer is reportable whether or not money changes hands — even gifts are included if other criteria are met.

What is a non-financed transfer?

A **non-financed transfer** of residential real property is a transfer that does not involve an extension of credit to all transferees (the entity or entities buying or receiving the property) that is **both**:

- Secured by the transferred property; and
- Extended by a financial institution subject to anti-money laundering (AML) program requirements and Suspicious Activity Report (SAR) obligations

Transfers that are financed by a lender without an obligation to maintain an AML program and a requirement to file SARs are treated under the rule as non-financed transfers that must be reported if other criteria making a transfer reportable are met.

A **transferee trust** is any legal arrangement created when a grantor or settlor places assets under the control of a trustee for the benefit of one or more beneficiaries or for a specified purpose, whether formed under the United States or a foreign jurisdiction. A transferee trust also includes legal arrangements that are similar to such legal arrangements in either structure or function. However, certain types of trusts are exempted from the definition of a transferee trust.

↔ **What Are FinCEN Anti-Money Laundering Rule Reporting Requirements?**

On the Real Estate Report, **the reporting person must submit:**

- information necessary to identify themselves;
- the residential real property being transferred;
- the transferor;
- the transferee entity or transferee trust;
- the individuals representing the transferee entity or transferee trust in the transfer;
- and the beneficial owners of the transferee entity or transferee trust. For example, the reporting person must collect the following identifying information for any beneficial owner of a transferee entity or a transferee trust: name, date of birth, residential address, citizenship, and taxpayer identification number.

The reporting person must also report the total consideration paid for the property, along with certain information about any payments made by the transferee entity or transferee trust.

↔ **What Are Exceptions to the FinCEN Anti-Money Laundering Rule?**

The following transfers **are not reportable:**

- A transfer that is a grant, transfer, or revocation of an easement.
- A transfer resulting from the death of an individual, whether pursuant to the terms of a will, the terms of a trust, the operation of law (such as transfers resulting from intestate succession, surviving joint owners, and transfer-on-death deeds), or by contractual provision (such as transfers resulting from beneficiary designations).
- A transfer incident to divorce or dissolution of a marriage or civil union (such as transfers required by a divorce settlement agreement).
- A transfer made to a bankruptcy estate.
- A transfer supervised by a court in the United States.
- A transfer 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.
- A transfer to a qualified intermediary for the purposes of a like-kind exchange for purposes of Section 1031 of the Internal Revenue Code.
- A transfer for which there is no reporting person.



Filing Deadline

A Real Estate Report must be filed by the later date of:

- The last day of the month following the month that closing occurred; or
- 30 calendar days after the date of closing.



Important: No Closing Without FinCEN Clearance

No reportable transaction may proceed to closing until approval has been received from Central FinCEN Reporting confirming that all required FinCEN information has been submitted, reviewed, and cleared for closing.



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