

**FinCEN Residential Real Estate Reporting Rule<sup>1</sup>**  
**Reporting Commences: March 1, 2026**

The Final Rule:	31 CFR § 1031.320 (89 Fed. Reg. 70258, August 29, 2024) ("Anti-Money Laundering Regulations for Residential Real Estate Transfers"), issued by the Financial Crimes Enforcement Network (" <b>FinCEN</b> "), Treasury (effective March 1, 2026) <sup>2</sup> (the " <b>Rule</b> ")
The FAQs:	Residential Real Estate Frequently Asked Questions (as of February 10, 2026) <sup>3</sup>
Quick Reference Guides: <sup>4</sup>	Do I need to file a report?/Residential Real Estate 101/Exceptions Quick Reference Guide/Common Questions and Answers
Technical Filing Guidance: <sup>5</sup>	Real Estate Report Filing Instructions/Technical Specifications for Batch XML Filers/Real Estate Report PDF Filing Instructions

VERY BROADLY

The Rule implements the Bank Secrecy Act's mandate to regulate "persons involved in real estate closings and settlements" and requires certain professionals to report **non-financed residential real estate purchases by legal entities or trusts** to FinCEN using FinCEN's electronic filing portal (the report so required, a "**Real Estate Report**," or "**Report**"). The Rule aims to close a long-exploited money laundering loophole: all-cash purchases of homes through shell companies or trusts that bypass AML-regulated lenders.<sup>6</sup>

I. **Scope of Reportable Transfers**

**Reportable Transfer – General Definition:** A "**reportable transfer**" means **any transfer of an ownership interest in residential real property:**

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<sup>1</sup> This outline is for internal legal use only. Attorneys should consult the full text of 89 Fed. Reg. 70258 and FinCEN's published guidance for detailed requirements and seek advice for specific scenarios. Link to all materials: <https://www.fincen.gov/rre-reference-materials>.

<sup>2</sup> <https://www.federalregister.gov/documents/2024/08/29/2024-19198/anti-money-laundering-regulations-for-residential-real-estate-transfers>. FinCEN, by exemptive order dated September 30, 2025, postponed the Rule's effective date (originally December 1, 2025) to March 1, 2026. Otherwise reportable transfers closing before that date need not be reported. (<https://www.fincen.gov/system/files/2025-09/RRE-Rule-Exemptive-Relief-Order-508.pdf>).

<sup>3</sup> [https://www.fincen.gov/rre-faqs#C\\_1](https://www.fincen.gov/rre-faqs#C_1) ("**FAQ**").

<sup>4</sup> <https://www.fincen.gov/rre-quick-reference-guides>.

<sup>5</sup> <https://www.fincen.gov/rre-technical-filing-guidance>.

<sup>6</sup> 89 Fed. Reg. 70258 at 70258.

**1. to a transferee legal entity or trust**

**2. that is “non-financed” (i.e., either no financing—an all-cash purchase—or no financing provided by a regulated lender)**

Unless there is an exemption<sup>7</sup>, all such transfers, regardless of deal size, are reportable.<sup>8</sup>

The following elements define the scope of reportable transactions:

- **“Residential Real Property”**: Property in the U.S. containing (or intended to contain) 1–4 family dwellings. This includes **single-family homes, townhouses, entire buildings** with up to four residential units (including mixed-use buildings), **condominium or co-op units** (including shares in a cooperative housing corporation), and **vacant land** on which the buyer intends to build 1–4 family housing.<sup>9</sup>
- **“Transfer” (Ownership Interest)**: Any transfer of any ownership interest in such property that is **evidenced by a deed** (or, for co-ops, by share certificates or similar instruments). This covers both purchases for value and transfers for no consideration (e.g., gifts). **There is no monetary threshold.**<sup>10</sup>
- **“Non-Financed” Transfer**: Any such transfer that is not financed by a bank or other AML (Anti-Money Laundering)-regulated lender. The Rule term “non-financed” means that there is no extension of credit to the buyer that is both **(1) secured by the property and (2) provided by a financial institution with an AML program and SAR-filing obligation.**<sup>11</sup> I.e., the following transactions are reportable:
  - **purchases in which financing secured by the property is provided by a private (non-regulated) lender,**<sup>12</sup>

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<sup>7</sup> 31 CFR § 1031.320(b).

<sup>8</sup> 89 Fed. Reg. 70258 at 70265. Transfers to natural persons are not subject to the Rule. Id.

<sup>9</sup> 31 CFR §§ 1031.320(b)(1)(i)-(iv).

<sup>10</sup> 31 CFR § 1031.320(n)(6). See also FAQ B.3:

This definition includes purchases of residential real property for any amount, as well as transfers of ownership for which no consideration is exchanged, such as a gift.

FinCEN does not consider corrective deeds to be reportable: “Corrective conveyances are used to correct title flaws, such as misspelled names, and are not used to create a new ownership interest in a property. As such, corrective conveyances do not involve a transfer of residential real property and are therefore not reportable.” 89 Fed. Reg. 70258 at 70269.

<sup>11</sup> 31 CFR § 1031.320(n)(5).

<sup>12</sup> FinCEN advises that if the reporting person is unsure whether a particular lender has AML/SAR obligations, FinCEN advises reaching out to that lender. Absent actual knowledge to the contrary, the reporting person can rely on the lender’s information in good faith to determine if the transfer is non-financed. FAQ B.4.

- all-cash purchases, and
- purchases that include carryback seller financing secured by the property.
- **“Transferee Entity” or “Transferee Trust”:** If the property is acquired by an individual in their own name, the Rule does not apply.<sup>13</sup> The buyer in the transaction must be a **legal entity** or a **trust**.
  - **“Transferee entity”** is defined broadly as “any person other than a transferee trust or an individual,”<sup>14</sup> except for sixteen classes of entities (very generally, regulated or publicly-reporting entities considered low-risk and their wholly-owned subsidiaries) from the definition of “transferee entity”<sup>15</sup>.
  - **“Transferee trust”** is defined as any trust or similar legal arrangement (domestic or foreign) established by a grantor for the benefit of beneficiaries, except for (1) trusts that are themselves SEC-reporting issuers; (2) trusts with a trustee that is an SEC-reporting issuer; (3) statutory trusts (which are instead treated as entities under the Rule); and (4) trusts that are subsidiaries of an exempt trust.<sup>16</sup>

**Multiple Transferees:** If a property transfer involves multiple purchasers, the Rule applies so long as **at least one** transferee is a covered entity or trust—if, for example, both an LLC and one individual buy a property and the transaction qualifies as “non-financed,” the transaction is still reportable. **Only information concerning the covered transferee(s) must be reported**, however, and not that concerning any exempt or individual co-transferees.<sup>17</sup>

**Excluded Transactions (Exemptions):** The Rule provides specific exclusions: certain transfers meeting the above criteria nevertheless are not required to be reported, because they involve circumstances thought unlikely to be used for money laundering.<sup>18</sup> **No Report is required for**<sup>19</sup>:

1. **Easements:** a grant, transfer, or revocation of an easement (an interest that doesn’t transfer full ownership of the property).
2. **Deceased Owner:** a transfer resulting from the death of an individual. This includes inheritances or other transfers by will or trust, by operation of law (e.g., to a surviving joint tenant or heir via intestacy, or via a transfer-on-death deed), or via a beneficiary designation (such as a pay-on-death or trust beneficiary).

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<sup>13</sup> 31 CFR § 1031.320(b)(1).

<sup>14</sup> 31 CFR § 1031.320(n)(10)(i).

<sup>15</sup> 31 CFR § 1031.320(n)(10)(ii). See also FAQ B. 6.

<sup>16</sup> 31 CFR § 1031.320(n)(11)(ii).

<sup>17</sup> FAQ B.9.

<sup>18</sup> See, e.g., FinCEN’s explanation for the exclusion of court-supervised transfers from the reporting requirement, at 89 Fed. Reg. 70268: “transfers required as a result of judicial determination in the United States are generally publicly documented and subject to oversight and therefore are subject to a lower risk for money laundering.”

<sup>19</sup> 31 CFR §§ 1031.320(b)(2)(i)-(viii).

3. **Divorce:** a transfer incident to divorce or legal separation of any marriage or civil union (including transfers required under a divorce or dissolution settlement).
4. **Bankruptcy:** a transfer made to a bankruptcy estate (e.g., the bankruptcy estate that comes in to being as a result of commencement of a bankruptcy proceeding).
5. **Court Order:** a transfer supervised by a court in the U.S. – for example, transfers ordered or approved by a court as part of a legal settlement or other judicial process.
6. **Certain Trust Transfers by Settlor:** a no-consideration transfer made by an individual (alone or with their spouse) into a trust where the transferor is also the trust’s settlor/grantor (individually or with spouse). This covers common estate-planning transfers, such as a person deeding their home into their own living trust for which they are settlor.
7. **1031 Exchange Intermediaries:** a transfer to a qualified intermediary in a like-kind exchange (26 CFR § 1.1031(k)-1) – i.e., the interim step of a Section 1031 tax-deferred exchange is exempt.
8. **No Reporting Person Available:** a transfer for which no person involved meets the Rule’s criteria to be a “reporting person.” This exemption is effectively a failsafe: if none of the roles in the reporting cascade (see Section II below) is present in the transaction, then there is no obligated filer, and no Report is required. (This situation would be unusual, but could occur in a simple private transfer with no intermediary performing any covered closing function.)

As noted above, **there are no exemptions based on the value of the property or amount of purchase price.** An entity’s \$50,000 cash purchase of a house is as reportable as a \$5 million purchase.<sup>20</sup> Nor does the Rule exempt transactions involving professions or business sectors beyond the defined entity categories above – e.g., large operating companies and non-profit organizations that do not otherwise fall into one of the sixteen exempt entity categories are subject to the reporting requirements of the Rule if they buy residential property in a “non-financed” transaction.

## II. “Reporting Person” – Who Must File the Report<sup>21</sup>

**Single Reporting Person Per Transfer:** For each reportable transfer, only **one party** must file the Report. The Rule designates the “**reporting person**” as one of a small number of businesses or professionals involved in the closing/settlement process who perform certain key functions.<sup>22</sup> In general, this will be a real estate closing agent, title company, attorney, or other person handling closing tasks – **not the buyer or seller themselves**. The actual **reporting person is determined in one of two ways:** (1) by applying the Rule’s **cascading hierarchy** of covered roles; or (2) by a mutual **designation agreement** between eligible parties (shifting the duty to one of them by contract).

### A. **Cascade of Reporting Responsibility**

Absent a designation agreement (see Part II.B), the Rule lays out a seven-tier “reporting cascade” to identify who must file. The cascade ranks the various transactional roles in order of priority. **The role that (1) appears first in the following list, (2) is present in the transaction, and (3) is performed by a person engaged within the United States as a business in the provision of real**

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<sup>20</sup> *Supra*, n. 6.

<sup>21</sup> See the FinCEN guidance document (“Do I need to file a report”), attached to this outline as Attachment 1, available at <https://www.fincen.gov/rre-quick-reference-guides>.

<sup>22</sup> 31 CFR § 1031.320(c)(1). The reporting person must be a person engaged within the U.S. “as a business in the provision of real estate closing and settlement services.” *Id.*

**estate closing and settlement services**, dictates the reporting person (that person/business must file a Report, and no one else needs to file):<sup>23</sup>

1. **Closing or Settlement Agent** – **The person listed as the closing/settlement agent** on the settlement statement or closing statement, if any, is the reporting person.<sup>24</sup> This is typically a title or escrow company or an attorney who orchestrates the closing.
2. **Settlement Statement Preparer** – If no one is formally designated as the closing agent, then the person who **prepared the closing or settlement statement** for the transaction is the reporting person. (In practice this could be an attorney, escrow officer, or title company staffer who generates that document.)
3. **Person Filing the Deed** – If neither of the above applies, then the **person who files the deed (or other instrument transferring title) with the recorder’s office** is the reporting person.
4. **Title Insurance Underwriter (for Owner’s Policy)** – If none of the above applies, the **person underwriting an owner’s title insurance policy for the buyer** (e.g., the title insurance underwriter, if any) is the reporting person.
5. **Disbursing Person** – If no one has underwritten title insurance or performed any of the higher-tier functions, then the **person who disburses the greatest amount of funds** (in any form, including from an escrow account, trust account, or lawyer’s trust account) in connection with the transfer is the reporting person.
6. **Title Examiner** – If none of the above roles exist, the **person who provides an evaluation of title status** (i.e. a title abstractor or title examiner who checks title for the buyer) is the reporting person.
7. **Document Preparer (Deed or Equivalent)**: Finally, if no one performed any of the above functions, the **person who prepares the deed or other legal instrument transferring ownership** (for example, the lawyer who drafts the deed) is the reporting person. (For cooperative apartments (which don’t use deeds), this would be the person who prepares the stock certificate or ownership document for the co-op shares.)

**In the unlikely event that none of the listed functions is performed by a person engaged within the United States as a business in the provision of real estate closing and settlement services, then no Report is required** (there is “no reporting person”).<sup>25</sup>

**There is no exemption for attorneys; they can be reporting persons if they are the deed preparer or settlement agent or perform another listed function.** FinCEN has acknowledged that attorneys may have privilege concerns, however, but notes that attorneys are free to enter into designation

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<sup>23</sup> *Id.* Note that a transferee or buyer, or a beneficial owner of either, is not a reporting person unless they are engaged within the United States as a business in the provision of a real estate closing and settlement service listed in the reporting cascade. 89. Fed. Reg. 70258 at 70371, 31 CFR § 1031.320(c)(1).

<sup>24</sup> 31 CFR § 1031.320(c)(1)(i); the following persons in the cascade are designated in 31 CFR §§ 1031.320(c)(1)(ii)-(vi).

<sup>25</sup> 31 CFR § 1031.320(b)(2)(viii). In addition, per 31 CFR § 1031.320(c)(3), **a financial institution that is obligated to maintain an AML program is not a “reporting person” for purposes of the Rule.**

agreements, as described below, and believes that it unlikely “that any attorney would necessarily be required to disclose privileged information.”<sup>26</sup>

**NOTE:** per 31 CFR § 1031.320(c)(2): “If an employee, agent, or partner acting within the scope of such individual’s employment, agency, or partnership would be the reporting person as determined by [the cascade], then that **individual’s employer, principal, or partnership is deemed to be the reporting person.**”

## B. **Designation Agreements Between Eligible Parties**

The Rule permits industry participants to **reallocate the filing duty contractually**, instead of adhering to the reporting cascade. If two or more persons in the cascade are involved in a transaction, they may execute a “**designation agreement**” selecting one of them as the sole reporting person for that transfer.<sup>27</sup> This mechanism allows flexibility to choose the party best positioned to file (and can reduce duplicated efforts or uncertainty about who will report).

### **Key points about designation agreements:**

- **Who Can Designate Whom:** The agreement must be **between persons who each perform one of the cascade functions** in that transaction. The party who would otherwise be the reporting person (highest in cascade) must be one of the signatories, and that party agrees to pass the responsibility to another signatory who also has a role in the cascade. For example, if a deed-filing attorney (cascade level 3) would normally be the reporter, but a title company involved in the transaction (cascade level 4) agrees to take on the filing, the attorney and the title company can sign a designation agreement naming the title company as the **designated reporting person**, thus relieving the attorney of the obligation.<sup>28</sup>
- **Form and Content:** FinCEN prescribes no form for a designation agreement, but it **must be in writing** and include, at a minimum: the **date** of the agreement; the **name and address** of the transferor (seller); the **name and address** of the transferee entity or trust (buyer); the **address or identifying information of the property** being transferred; the **name and address** of the designated reporting person (who will file the Report); and the **name and address of all other parties** to the agreement (i.e. the person(s) relinquishing the duty).<sup>29</sup> This is the same information required to be included in IRS Form 1099-S designation agreements.<sup>30</sup> If a valid designation agreement is in place with respect to a reportable transfer, the party designated

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<sup>26</sup> 89 Fed. Reg. 70258 at 70263. In addition, FinCEN has said that it “expects to issue guidance that will address the rare circumstance in which an attorney is concerned about the disclosure of potentially privileged information, which will provide further information on the mechanism for asserting the attorney-client privilege and appropriately filing the relevant Real Estate Report.” *Id.*

<sup>27</sup> 31 CFR § 1031.320(c)(4)(i). A separate designation agreement, however, is required for each reportable transfer. *Id.*

<sup>28</sup> *Id.* No one other than a person in the cascade may be the designated reporting person.

<sup>29</sup> 31 CFR § 1031.320(c)(4)(ii).

<sup>30</sup> 89 Fed. Reg. 70258 at 70280.

as the reporting person in that agreement is the “reporting person” for that transfer and is solely responsible for filing the related Real Property Report.<sup>31</sup>

- **One Agreement per Transfer (No “Blanket” Deals):** A **separate designation agreement is required for each transfer** to which parties wish to apply it.<sup>32</sup> FinCEN has expressed concern that blanket agreements would undermine its ability to enforce the Rule, particularly when a Report is not filed as required.<sup>33</sup>
- **Retention and Availability:** **All parties to a designation agreement must retain a copy** of the signed agreement for **five years**.<sup>34</sup> The reporting person is not required to submit the agreement to FinCEN with the Report, but all parties must retain copies for ease of FinCEN’s enforcement activities.<sup>35</sup>

### III. Reporting Obligations – Information to Be Reported

Real Estate Reports are required to be filed electronically with FinCEN (via the BSA E-Filing system) and to provide specified identifying information about the transaction and the involved parties—very broadly, they must **identify who is involved, what property is involved, and how it was paid for**, focusing on the buyer side. In particular, they **must include** the following information:<sup>36</sup>

- **Reporting Person Information:** The Report must identify **the reporting person themselves** – i.e., the business or individual filing the Report.<sup>37</sup> This includes providing, among other information, the reporting person’s **full legal name, their position in the reporting person cascade, and the street address that is their principal place of business in the U.S.** If the reporting person is a business entity, information about that entity and the individual filing on its behalf will be required.
- **Transferee Information:** The identity of the transferee (buyer) entity or trust must be provided.<sup>38</sup> For an entity, this will include **(1) full legal name, (2) trade name or DBA, if any, (3) address (including principal place of business in the U.S., or, if not in the U.S., the primary location in the U.S. in which the transferee conducts business, and (4) identifying number** as required by 31 C.F.R. § 1031.320(e), following the regulatory hierarchy (generally: U.S. TIN; if none, foreign tax identification number and jurisdiction; and, if neither has been issued, the applicable foreign-issued identification number specified in the regulation). For a trust, the

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<sup>31</sup> 31 CFR § 1031.320(c)(4)(i).

<sup>32</sup> *Supra*, note 28.

<sup>33</sup> *Id.*

<sup>34</sup> 31 CFR § 1031.320(l).

<sup>35</sup> 89 Fed. Reg. 70258 at 70276.

<sup>36</sup> 31 CFR § 1031.320(d)–(h), as well as the technical filing guidance at <https://www.fincen.gov/rre-technical-filing-guidance>, to which the reader should refer for complete details.

<sup>37</sup> 31 CFR § 1031.320(d).

<sup>38</sup> 31 CFR § 1031.320(e)(1) (for entities); 31 CFR § 1031.320(e)(2) (for trusts).

requirements are similar, but not identical, to those for a transferee entity; please refer to 31 CFR § 1031.320(e)(2)(i) and (ii) for details.

- **Beneficial Owners of the Transferee:** The reporting person must identify **each beneficial owner of the transferee entity or transferee trust** (determined as of the date of closing).<sup>39</sup>
  - The definition of “**beneficial owner**” (in 31 CFR § 1031.320(n)(1)) tracks that in FinCEN’s Corporate Transparency Act (CTA) regulations,<sup>40</sup> with adjustments for trusts. For a **transferee entity (e.g., an LLC)**, a beneficial owner is **any individual who, directly or indirectly, either (1) exercises substantial control over the entity, or (2) owns or controls at least 25% of the entity’s ownership interests**.<sup>41</sup> All individuals meeting either threshold must be reported. If an entity has no ≥25% owners (for instance, a nonprofit or a widely-held entity), then only the persons with substantial control need be listed.<sup>42</sup>
  - For a **transferee trust**, the Rule enumerates specific positions that count as beneficial owners:<sup>43</sup> **(1) each trustee; (2) any person with authority to dispose of trust assets** (such as a trust protector with that power); **(3) any beneficiary** who is either the sole permissible recipient of trust income/principal or has the right to demand a distribution of substantially all trust assets; **(4) any grantor/settlor** who has the right to revoke the trust or otherwise withdraw its assets (e.g. the settlor of a revocable living trust); and **(5) any individual who is the beneficial owner of another entity or trust that itself holds one of the above positions** (this last “look-through” provision prevents evasion via layering – but note that if the intermediary entity/trust is one of the exempt types, its ownership might not need to be reported).
  - The Report must include **basic identifying information** for each beneficial owner: **(1) full legal name, (2) date of birth, (3) residential address, (4) citizenship, and (5) unique identifying number** (TIN, or, if no TIN, tax ID number issued by a foreign jurisdiction and the name of that jurisdiction, or, if neither of those has been issued, the passport ID number of a non-expired passport issued by a foreign government). **In the case of a beneficial owner in a trust, the Report must also include the category of beneficial owner, as determined in 31 CFR § 1031.320(n)(1)(ii).**<sup>44</sup>

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<sup>39</sup> 31 CFR § 1031.320(e)(1)(ii) (for entities); 31 CFR § 1031.320(e)(2)(iii) (for trusts).

<sup>40</sup> 31 CFR Part 1010.

<sup>41</sup> 31 CFR § 1031.320(n)(1)(i).

<sup>42</sup> The Rule references the definition of “beneficial owner” set out at 31 CFR 1010.380(d), the text of which is set out on the Attachment 2 to this outline and is available at <https://www.ecfr.gov/current/title-31/subtitle-B/chapter-X/part-1010/subpart-C/section-1010.380>.

<sup>43</sup> 31 CFR § 1031.320(n)(1)(ii).

<sup>44</sup> The Rule actually refers to paragraph (j)(1)(ii), instead of to paragraph (n)(1)(ii), but that appears to be an error in the Rule: paragraph (j)(1)(ii) does not exist, and the relevant categories are in fact specified in 31 CFR § 1031.320(n)(1)(ii).

- Note that **only individuals are reported** – if another company (other than an exempt entity) owns 25% of an entity buyer, the reporting person must look through to the individuals who ultimately own that company (per the 25%/control tests).
- **Signers’ Information: Information on any individual acting as a representative of the transferee** in the deal—i.e., the individual who signs the purchase documents on an entity’s behalf or the trustee who signs for a trust.<sup>45</sup> The required information includes **all of the items listed above with respect to beneficiaries, as well as a description of the capacity in which the individual is authorized to act as the signing individual and, if the individual is acting in that capacity as an employee, agent, or partner, the name of the individual’s employer, principal, or partner.**
- **Transferor Information:** Information regarding the transferor similar to that required to be reported regarding the transferee.<sup>46</sup>
- **Property and Transaction Details: (1) The property address, (2) the legal description of the property, and (3) the date of closing.**<sup>47</sup>
- **Purchase Price and Payment Information:** The reporting person must report the **total consideration paid** for the property (the purchase price or value exchanged) and certain information about how the payment was made: **(1) the amount** of each payment, **(2) the method** by which the payment was made (e.g., by wire transfer, check, etc.), **(3) if the payment was made from an account held at a financial institution, the name of that institution and the account number,** and **(4) the name of the payor** on any wire, check, or other type of payment if that payor is not the transferee entity or transferee trust.<sup>48</sup>
- **Miscellaneous:** The rule also requires disclosure if the buyer entity is using any “hard money, private, or similar loan” (i.e., any loan by a person that is not a financial institution legally obligated to maintain an anti-money laundering program and to report suspicious transactions).<sup>49</sup>

**Reliance, Accuracy, and Completeness:** The Rule establishes a “reasonable reliance” standard to protect reporting persons who rely in good faith on others’ information. In general, the reporting person **may rely on information provided by any other party** to satisfy the requirements, **absent knowledge of facts that would call the information’s reliability into question.**<sup>50</sup> For **beneficial owner information,** however, **the Rule requires that information regarding the transferee be obtained from the transferee or its representative,** and permits reliance on that beneficial

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<sup>45</sup> 31 CFR § 1031.320(e)(1)(iii) (for entities); 31 CFR § 1031.320(e)(2)(iv) (for trusts).

<sup>46</sup> 31 CFR § 1031.320(f).

<sup>47</sup> 31 CFR § 1031.320(g).

<sup>48</sup> 31 CFR § 1031.320(h).

<sup>49</sup> 31 CFR § 1031.320(i).

<sup>50</sup> 31 CFR § 1031.320(j).

ownership information only if person providing the information **certifies in writing that the information is true and correct to the best of their** knowledge.<sup>51</sup>

**Complete Information Required: The Rule does not contemplate the filing of incomplete information.** In response to comments requesting that incomplete reports be permitted, FinCEN said.<sup>52</sup>

. . . FinCEN declines to add language to the regulation to provide for that option. FinCEN believes that allowing for the submission of incomplete reports could make it easier for transferees to avoid reporting requirements while simultaneously also making it difficult for FinCEN to ensure compliance with the rule. It could also greatly reduce the reports' utility to law enforcement. FinCEN believes the adoption of the reasonable reliance standard addresses many of the concerns expressed about access to reportable information.

. . .

The 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. However, FinCEN will consider issuing additional public guidance to assist the financial institutions subject to these regulations in complying with their reporting obligations.<sup>53</sup>

In practice, reporting persons should consider adding to their engagement letters or agreements an obligation on the part of transaction participants to provide the information required to complete the Report.

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<sup>51</sup> 31 CFR § 1031.320(j)(2).

<sup>52</sup> 89 Fed. Reg. 70258 at 70264. FinCEN expressed its belief that allowing reporters to reasonably rely on information provided by others would be sufficient to enable the filing of complete reports, adding:

Further, FinCEN believes that reporting persons are unlikely to perform the function described in the reporting cascade until they have either obtained the required information or are reasonably certain that they will be able to obtain it soon after the date of closing.

<sup>53</sup> The form Report, however, does provide a box to indicate that the reporting person is filing an amended or corrected Report. The form Report itself notes, at page 7:

If a reporting person would like to correct or amend an (sic) Real Estate Report, the reporting person would need to complete a corrected/amended Real Estate Report in its entirety, with the necessary corrections or updates made to the information. The BSA ID number assigned to the prior Real Estate Report that is being corrected/amended must be referenced in the corrected/amended Real Estate Report. The corrected/amended Real Estate Report must include unchanged information along with the corrected or amended information.

#### IV. Filing Deadlines and Method

**How to File:** Reports will be filed **electronically** with FinCEN<sup>54</sup> using FinCEN’s BSA E-Filing System (the same online portal used for SARs and CTRs). FinCEN has released a draft **Real Estate Report (RER) form**<sup>55</sup> and will accept filings through a web form or batch XML filing. **There is no paper filing option.**

Reports filed pursuant to the Rule are reports under the Bank Secrecy Act and are therefore subject to the disclosure provisions of 31 U.S.C. § 5319 and 31 C.F.R. § 1010.950. These provisions authorize dissemination to specified governmental authorities but do not provide for public access. Unlike Suspicious Activity Reports, however, Reports are not subject to the confidentiality protections of 31 U.S.C. § 5318(g)(2)--information that would reveal that a reportable transfer has been reported is not confidential.<sup>56</sup>

**Deadline to File:** A Report is due **within 30–60 days after closing**, depending on the date of closing. Specifically, the Report must be filed **by the later of: (1) 30 calendar days after the closing date, and (2) the last day of the month following the month in which closing occurred.**<sup>57</sup> E.g., if a reportable transaction were to close on January 5, the Report would be due by the later of February 4 (30 days after the closing) and February 29 (last day of the month after January, the month in which closing occurred) – thus, Feb 29. If the closing were to occur on January 31, the Report would be due March 1--30 days after the closing (and after the last day of February, the month following the month in which closing occurred).

#### V. Recordkeeping and Compliance Considerations

**Record Retention – Reporting Persons:** The reporting person must **retain copies of two items for five years** after the closing: **(1) the beneficial ownership certification** obtained from the transferee (or its agent), and **(2) any designation agreement** executed for that transfer. There is no requirement to keep a copy of the Report itself, although businesses may choose to keep a copy for their own files.<sup>58</sup>

**Recordkeeping – Other Parties:** Any other party who is a **signatory to a designation agreement** (for instance, a settlement statement preparer who passed the reporting obligation to a title company that agreed to take on filing) must also **retain a copy of that designation agreement for five years.** Aside from designation agreements, however, the Rule does not impose new retention requirements on parties who end up not being the reporter.<sup>59</sup>

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<sup>54</sup> 31 CFR § 1031.320(k)(2). See also the technical filing guidance at <https://www.fincen.gov/rre-technical-filing-guidance>. Reporting persons must register for BSA E-Filing to submit a Report.

<sup>55</sup> A read-only copy may be accessed at: <https://www.fincen.gov/system/files/2025-09/RER-Form-508C.pdf>.

<sup>56</sup> 31 CFR § 1031.320(m)(1).

<sup>57</sup> 31 CFR § 1031.320(k)(3).

<sup>58</sup> 31 CFR § 1031.320(l) (for the records required to be kept); 89 Fed. Reg. 70258 at 70276 (for the five-year requirement and for FinCEN’s explanation for not requiring retention of copies of Reports: “FinCEN believes that eliminating the requirement to retain a Real Estate Report may reduce concerns related to data security and to costs associated with the retention of records.”)

<sup>59</sup> *Id.*

**Penalties for Non-Compliance:** The Rule itself does not include penalties for non-compliance. FinCEN noted it was unnecessary to list them since the Bank Secrecy Act’s existing penalty provisions apply by default. Civil penalties may be imposed under 31 U.S.C. § 5321, including enhanced penalties for willful violations. Criminal penalties, including fines of up to \$250,000 and imprisonment, may apply under 31 U.S.C. § 5322.<sup>60</sup> However, FinCEN has stated that it initially “intends to conduct outreach to potential reporting persons on the need to comply with the final rule’s requirements.”<sup>61</sup>

**Effective Date and Potential Legal Challenges:** The reporting requirements **take effect March 1, 2026. Any covered transfer closing on or after that date must be reported.** There have been efforts to overturn or block the Rule--in early 2025, resolutions (S.J. Res. 15 and H.J. Res. 55) were introduced in Congress to nullify the Rule, and a lawsuit (Flowers Title Companies, LLC v. Bessent, E.D. Tex.) was filed challenging FinCEN’s authority to adopt the Rule. As of this writing, however, neither resolution had been adopted, and, while cross-motions for summary judgment in Flowers Title Companies were heard on January 13, 2026, those motions remain under advisement.

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<sup>60</sup> 89 Fed. Reg. 70258 at 70264:

Negligent violations of the final rule could result in a civil penalty of, as of the publication of the final rule, not more than \$1,394 for each violation, and an additional civil money penalty of up to \$108,489 for a pattern of negligent activity.<sup>28</sup> Willful violations of the final rule could result in a term of imprisonment of not more than five years or a criminal fine of not more than \$250,000, or both.<sup>29</sup> Such violations also could result in a civil penalty of, as of the publication of the final rule, not more than the greater of the amount involved in the transaction (not to exceed \$278,937) or \$69,733.

<sup>61</sup> 89 Fed. Reg. 70258 at 70264.



## Quick Reference Guide for Reporting Persons Are You a Reporting Person?



The person responsible for filing a Real Estate Report is known as the “reporting person,” one of a limited number of persons who play specified roles in the reportable transfer. Only one person in a given transaction is deemed to be the reporting person, and that person is required to report. The reporting person can be identified in one of two ways:

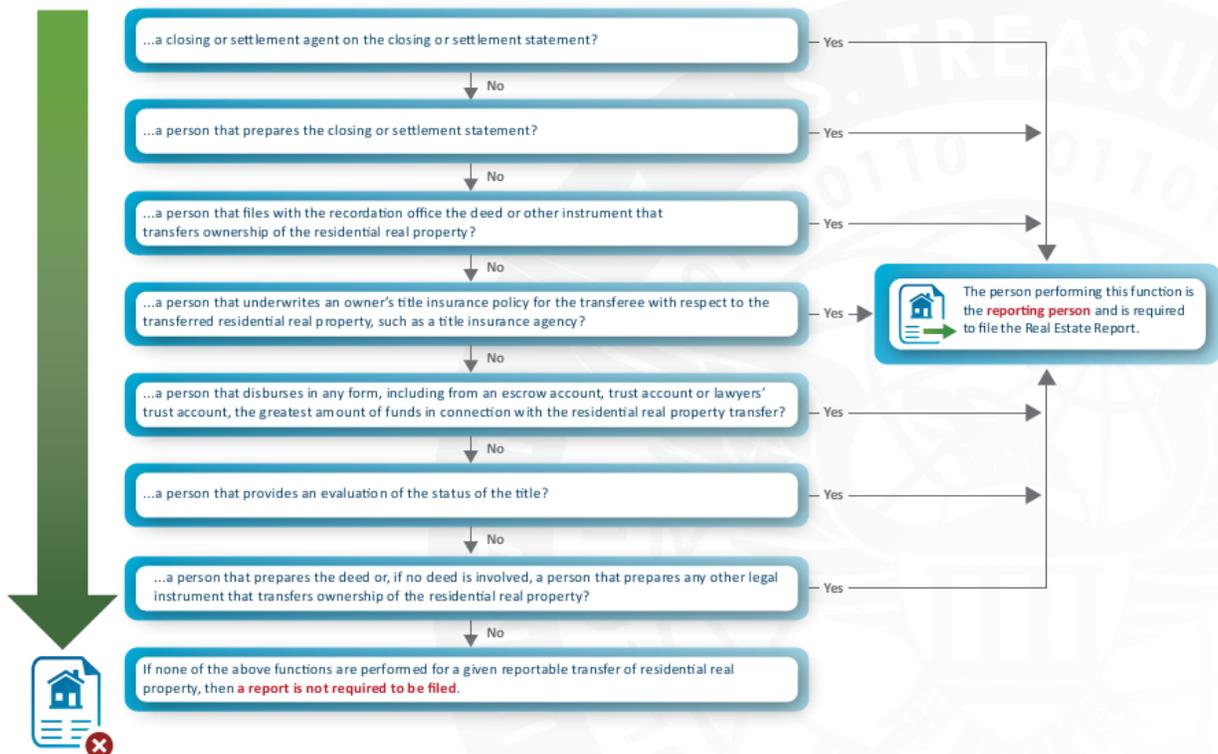
### Reporting Cascade:

- A list of seven different functions that a real estate business or professional may perform in a reportable transfer of residential real property (see below).
- If a person is performing the first function described in the cascade, then that person would be the reporting person. If no person performing the first function described in the cascade is involved in the transfer, then the reporting person would be the person that performs the second described function, if any, and so on down the cascade.
- If none of the functions set out in the cascade are performed for a given reportable transfer of residential real property, a Real Estate Report is not required to be filed.

### Designation Agreement:

- A person that performs a function described in the reporting cascade may choose to enter into a written agreement that designates another person that performs a function described in the reporting cascade as the reporting person.

### Does the reportable transfer involve...



ATTACHMENT 2

**31 CFR 101.380(d) (“Beneficial Owner”)**

Beneficial owner. For purposes of this section, the term “beneficial owner,” with respect to a reporting company, means any individual who, directly or indirectly, either exercises substantial control over such reporting company or owns or controls at least 25 percent of the ownership interests of such reporting company.

(1) Substantial control —

(i) Definition of substantial control. An individual exercises substantial control over a reporting company if the individual:

(A) Serves as a senior officer of the reporting company;

(B) Has authority over the appointment or removal of any senior officer or a majority of the board of directors (or similar body);

(C) Directs, determines, or has substantial influence over important decisions made by the reporting company, including decisions regarding:

(1) The nature, scope, and attributes of the business of the reporting company, including the sale, lease, mortgage, or other transfer of any principal assets of the reporting company;

(2) The reorganization, dissolution, or merger of the reporting company;

(3) Major expenditures or investments, issuances of any equity, incurrence of any significant debt, or approval of the operating budget of the reporting company;

(4) The selection or termination of business lines or ventures, or geographic focus, of the reporting company;

(5) Compensation schemes and incentive programs for senior officers;

(6) The entry into or termination, or the fulfillment or non-fulfillment, of significant contracts;

(7) Amendments of any substantial governance documents of the reporting company, including the articles of incorporation or similar formation documents, bylaws, and significant policies or procedures; or

(D) Has any other form of substantial control over the reporting company.

(ii) Direct or indirect exercise of substantial control. An individual may directly or indirectly, including as a trustee of a trust or similar arrangement, exercise substantial control over a reporting company through:

(A) Board representation;

(B) Ownership or control of a majority of the voting power or voting rights of the reporting company;

(C) Rights associated with any financing arrangement or interest in a company;

(D) Control over one or more intermediary entities that separately or collectively exercise substantial control over a reporting company;

(E) Arrangements or financial or business relationships, whether formal or informal, with other individuals or entities acting as nominees; or

(F) any other contract, arrangement, understanding, relationship, or otherwise.

(2) Ownership Interests —

(i) Definition of ownership interest. The term “ownership interest” means:

(A) Any equity, stock, or similar instrument; preorganization certificate or subscription; or transferable share of, or voting trust certificate or certificate of deposit for, an equity security, interest in a joint venture, or certificate of interest in a business trust; in each such case, without regard to whether any such instrument is transferable, is classified as stock or anything similar, or confers voting power or voting rights;

(B) Any capital or profit interest in an entity;

(C) Any instrument convertible, with or without consideration, into any share or instrument described in paragraph (d)(2)(i)(A), or (B) of this section, any future on any such instrument, or any warrant or right to purchase, sell, or subscribe to a share or interest described in paragraph (d)(2)(i)(A), or (B) of this section, regardless of whether characterized as debt;

(D) Any put, call, straddle, or other option or privilege of buying or selling any of the items described in paragraph (d)(2)(i)(A), (B), or (C) of this section without being bound to do so, except to the extent that such option or privilege is created and held by a third party or third parties without the knowledge or involvement of the reporting company; or

(E) Any other instrument, contract, arrangement, understanding, relationship, or mechanism used to establish ownership.

(ii) Ownership or control of ownership interest. An individual may directly or indirectly own or control an ownership interest of a reporting company through any contract, arrangement, understanding, relationship, or otherwise, including:

(A) Joint ownership with one or more other persons of an undivided interest in such ownership interest;

(B) Through another individual acting as a nominee, intermediary, custodian, or agent on behalf of such individual;

(C) With regard to a trust or similar arrangement that holds such ownership interest:

(1) As a trustee of the trust or other individual (if any) with the authority to dispose of trust assets;

(2) As a beneficiary who:

(i) Is the sole permissible recipient of income and principal from the trust; or

(ii) Has the right to demand a distribution of or withdraw substantially all of the assets from the trust; or

(3) As a grantor or settlor who has the right to revoke the trust or otherwise withdraw the assets of the trust; or

(D) Through ownership or control of one or more intermediary entities, or ownership or control of the ownership interests of any such entities, that separately or collectively own or control ownership interests of the reporting company.

(iii) Calculation of the total ownership interests of a reporting company. In determining whether an individual owns or controls at least 25 percent of the ownership interests of a reporting company, the total ownership interests that an individual owns or controls, directly or indirectly, shall be calculated as a percentage of the total outstanding ownership interests of the reporting company as follows:

(A) Ownership interests of the individual shall be calculated at the present time, and any options or similar interests of the individual shall be treated as exercised;

(B) For reporting companies that issue capital or profit interests (including entities treated as partnerships for federal income tax purposes), the individual's ownership interests are the individual's capital and profit interests in the entity, calculated as a percentage of the total outstanding capital and profit interests of the entity;

(C) For corporations, entities treated as corporations for federal income tax purposes, and other reporting companies that issue shares of stock, the applicable percentage shall be the greater of:

(1) the total combined voting power of all classes of ownership interests of the individual as a percentage of total outstanding voting power of all classes of ownership interests entitled to vote, or

(2) the total combined value of the ownership interests of the individual as a percentage of the total outstanding value of all classes of ownership interests; and

(D) If the facts and circumstances do not permit the calculations described in either paragraph (d)(2)(iii)(B) or (C) to be performed with reasonable certainty, any individual who owns or controls 25 percent or more of any class or type of ownership interest of a reporting company shall be deemed to own or control 25 percent or more of the ownership interests of the reporting company.

(3) Exceptions. Notwithstanding any other provision of this paragraph (d), the term "beneficial owner" does not include:

(i) A minor child, as defined under the law of the State or Indian tribe in which a reporting company is first registered, provided the reporting company reports the required information of a parent or legal guardian of the minor child as specified in paragraph (b)(2)(ii) of this section;

(ii) An individual acting as a nominee, intermediary, custodian, or agent on behalf of another individual;

(iii) An employee of a reporting company, acting solely as an employee, whose substantial control over or economic benefits from such entity are derived solely from the employment status of the employee, provided that such person is not a senior officer as defined in paragraph (f)(8) of this section;

(iv) An individual whose only interest in a reporting company is a future interest through a right of inheritance;

(v) A creditor of a reporting company. For purposes of this paragraph (d)(3)(v), a creditor is an individual who meets the requirements of paragraph (d) of this section solely through rights or interests for the payment of a predetermined sum of money, such as a debt incurred by the reporting company, or a loan covenant or other similar right associated with such right to receive payment that is intended to secure the right to receive payment or enhance the likelihood of repayment.

(4) Exemptions.

(i) Reporting companies are exempt from the requirement in 31 U.S.C. 5336 and this section to report the beneficial ownership information of any United States persons who are beneficial owners.

(ii) United States persons are exempt from the requirements in 31 U.S.C. 5336 and this section to provide beneficial ownership information with respect to any reporting company for which they are a beneficial owner.