

▶ **ANTI-MONEY** *laundering regulations for residential real estate transfers*



The Financial Crimes Enforcement Network (FinCEN) issued the Anti-Money Laundering Regulations for Residential Real Estate Transfers on August 29, 2024. The Rule takes effect on December 1, 2025. Transactions covered by the final Rule are reported on a Real Estate Report specifically created for reporting transactions covered by this Rule.

However, as of this article the form has not been finalized, and public comments related to the form were due by January 13, 2025. In the months leading up to publishing the new reporting form, we will provide as much information as we can to keep our readers informed of how the new rule might impact their business.

What is covered?

Cash purchases of residential real estate designed for 1-4 family occupancy where the buyer is a legal entity or trust. Although a reportable transaction is typically an all-cash sale, the rule may cover instances of private or seller financing where the loan or funds are provided by a bank, mortgage broker or mortgage banker, or other source that does not have an anti-money laundering program. The new rule does state the funding of the loan must be secured by the subject property, so lines of credit secured by other collateral would be considered reportable.

The types of property covered under the rule include residential 1-4 family properties, vacant land on which the buyer intends to build a structure primarily for occupancy by 1-4 families, co-ops, condominiums, mixed use and apartment buildings. (A co-op, or cooperative, is a business that is owned and controlled by its members, who are also known as member-owners.)

The rule requires reporting on real estate sales located anywhere in the U.S. (50 states), D.C., Puerto Rico, overseas territories, and Indian lands. There is no minimum sales price. All sales, for any amount, are covered.

What is NOT covered?

There are exemptions. A reportable transfer does NOT include a:

Grant, transfer, or revocation of an easement;

Transfer resulting from the 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;

Transfer incident to divorce or dissolution of a marriage or civil union;

Transfer to a bankruptcy estate;

Transfer supervised by a court in the United States;

Transfer for no consideration made by an individual, either alone or with the individual's spouse, to a trust of which that individual, that individual's spouse, or both of them, are the settlor(s) or grantor(s);

Transfer to a qualified intermediary for purposes of 26 CFR 1.1031(k)-1; or

Transfer for which there is no reporting person.

When must the information be reported?

A Real Estate Report must be filed by the later date of either: (1) 30 calendar days after the date of closing or (2) the last day of the month following the month in which the date of closing occurred. Reporting persons will now generally have between 30 and 60 days to file a Real Estate Report.

Who must report?

According to the Rule, the primary “reporting person” is the person conducting the settlement/closing or the person who prepares the settlement statement. Reporting is required even when the buyer does not purchase title insurance.

What must be reported?

On the current proposed form there are 111 data points, not including additional data required if there are multiple properties, multiple authorized signers, or multiple beneficial owners. The data fields include, but are not limited to:

Reporting person information

Closing date

Property address and full legal description

Transferee/Buyer information*

Person(s) associated with the transferee (authorized signers and beneficial owners)

Transferor/Seller information

If the Transferor is a Trust, provide the trustee’s information

Purchase price

Payment Information, including bank account details for sourcing funds**

Detailed payment information for payments made on behalf of the Transferee/Buyer

*Beneficial Ownership Information (BOI) Reporting

Transferee/Buyer information may be challenging to collect due to the sensitive nature of this information. The new rule allows for a reasonable reliance standard, which will allow reporting persons to generally rely on information obtained from other persons, absent knowledge of facts that would reasonably call into question the reliability of that information.

****Payment information**

The required payment information includes the following (some of which is not typically provided to settlement agents):

The amount of the payment, consisting of the total consideration paid by the transferee entity or transferee trust;

The form or method by which the payment was made;

If the payment was paid from an account held at a financial institution, the name of the financial institution and the account number; and

The name of the payor on any wire, check, or other type of payment if the payor is not the transferee entity or transferee trust.

Be sure to read more about the Anti-Money Laundering in Real Estate rule and its sweeping changes to the industry in next month’s edition of Fraud Insights.