

Nuts & Bolts of FinCEN Residential Real Estate Rule Requirements

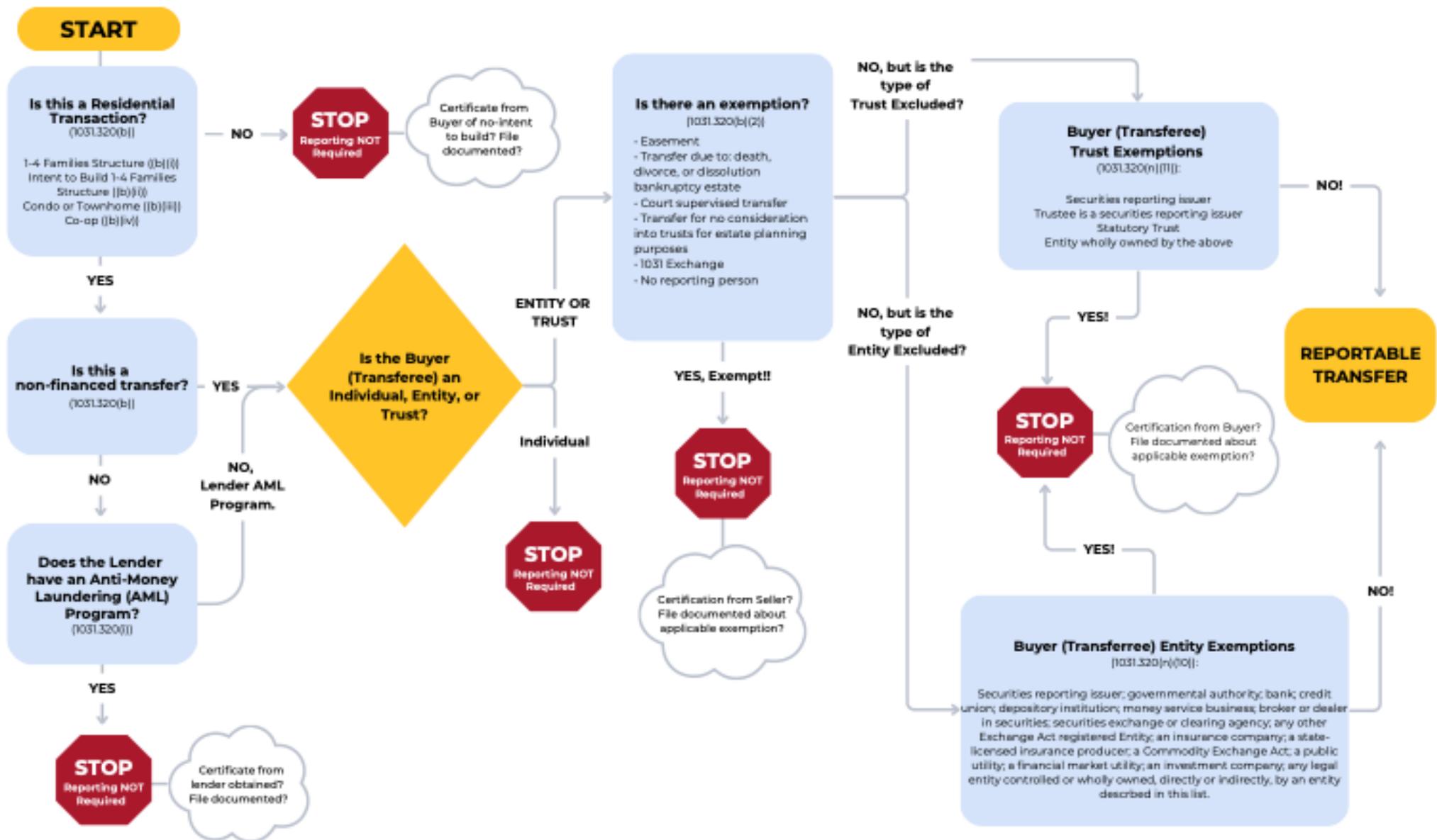
Walking Through the Flowchart to
Determine What Transactions are
Reportable and Determining What Must Be
Gathered

Agenda

- Flowchart Use to Determine Whether Transaction Reportable
- Certification Use
- What Information is Required if the Transaction is Reportable

Is the Transaction Reportable?

FinCEN Real Estate Report Required?



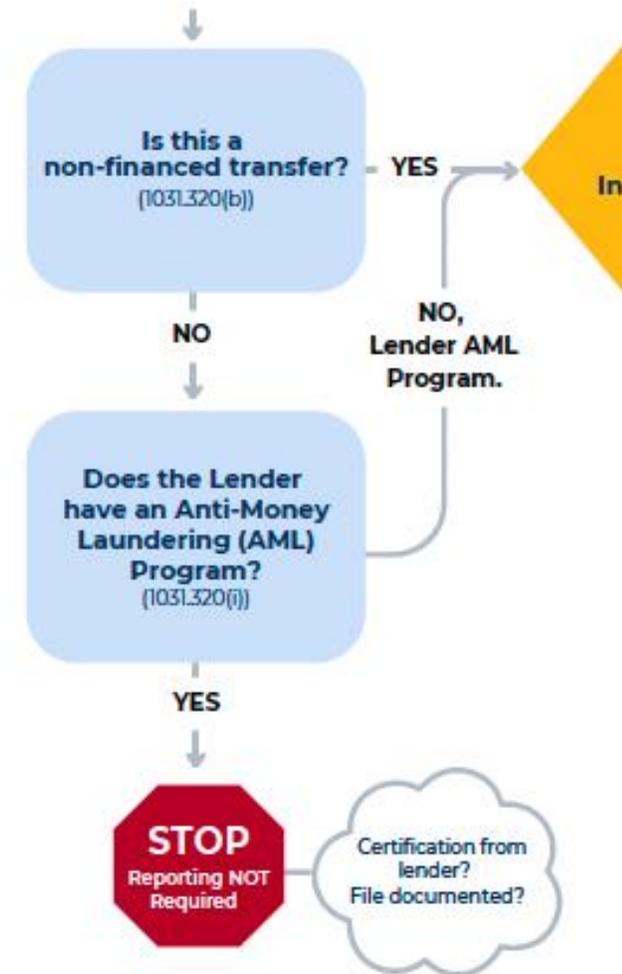
Step 1:
Is this a Residential
Transaction?



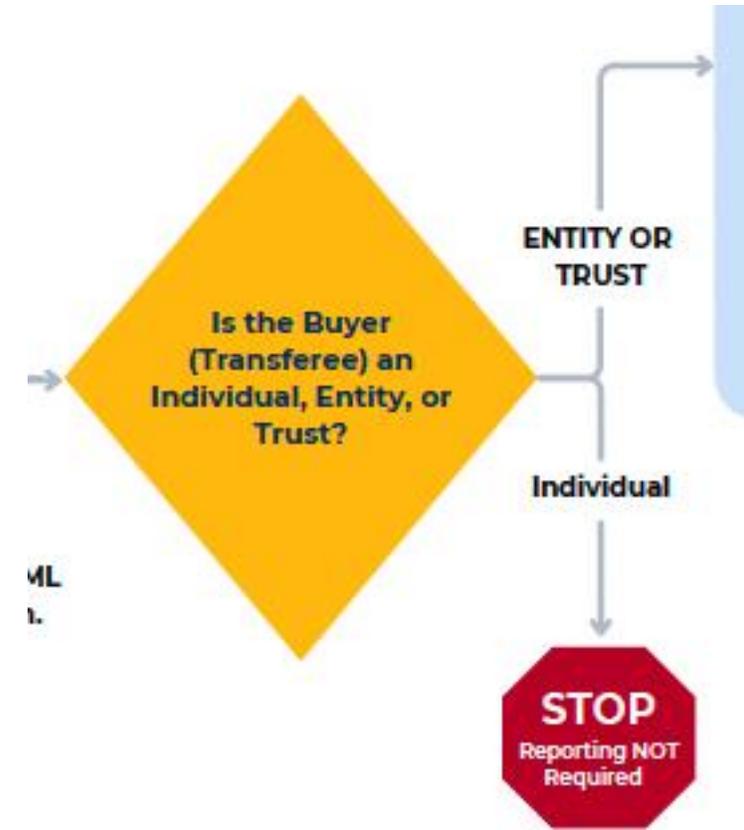
Steps 2 & 3:

Is this a non-financed transfer?

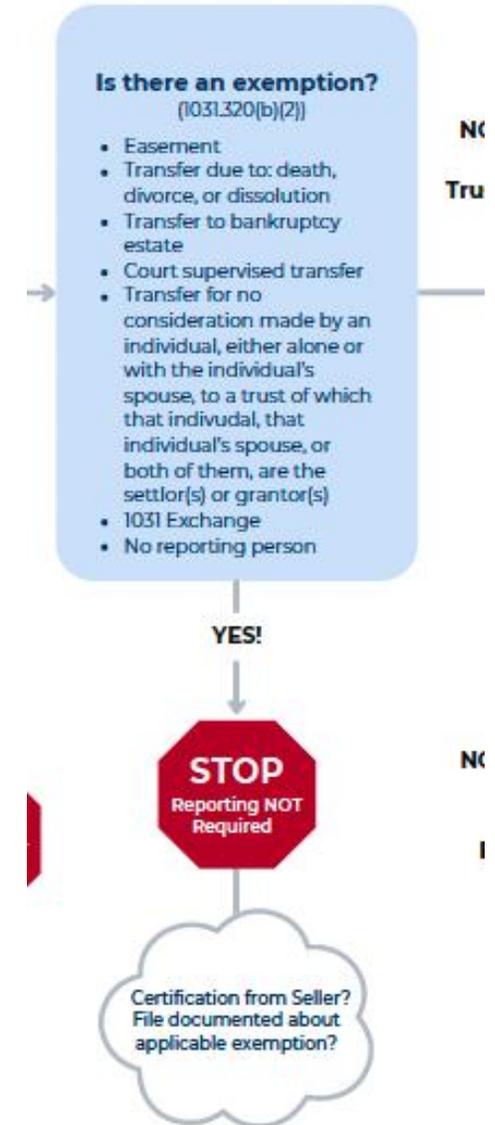
Does the Lender have an Anti-Money Laundering Program?



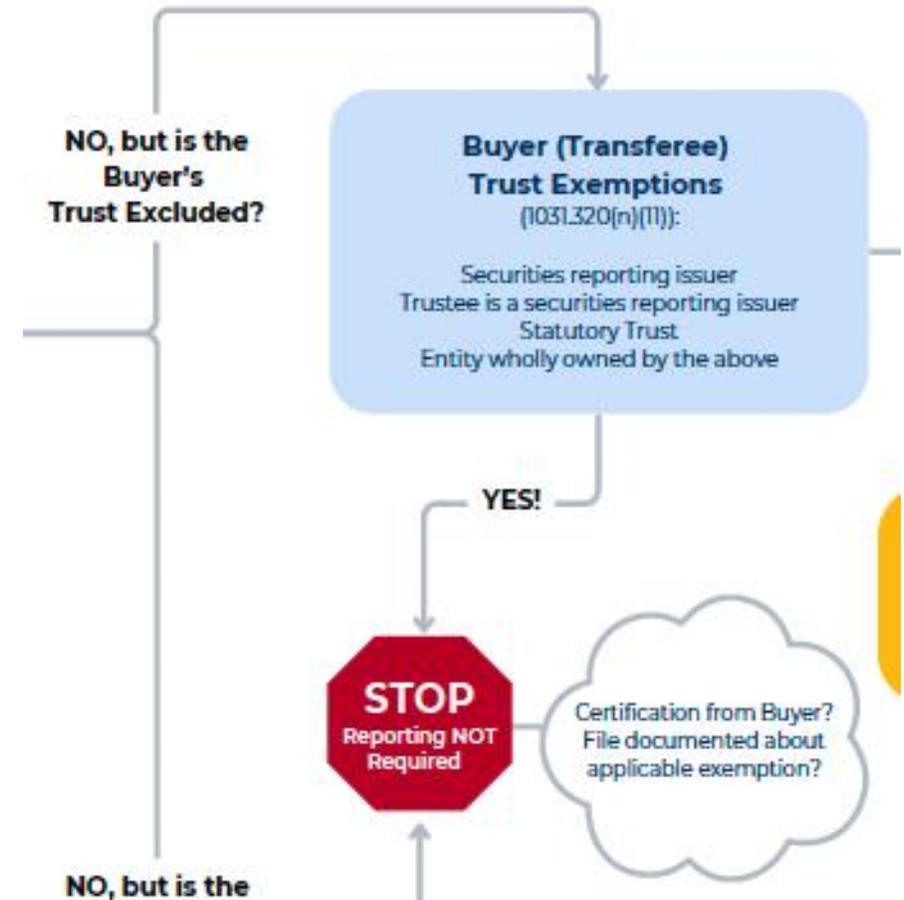
Step 4:
Is the Buyer an
Individual, Entity, or
Trust?



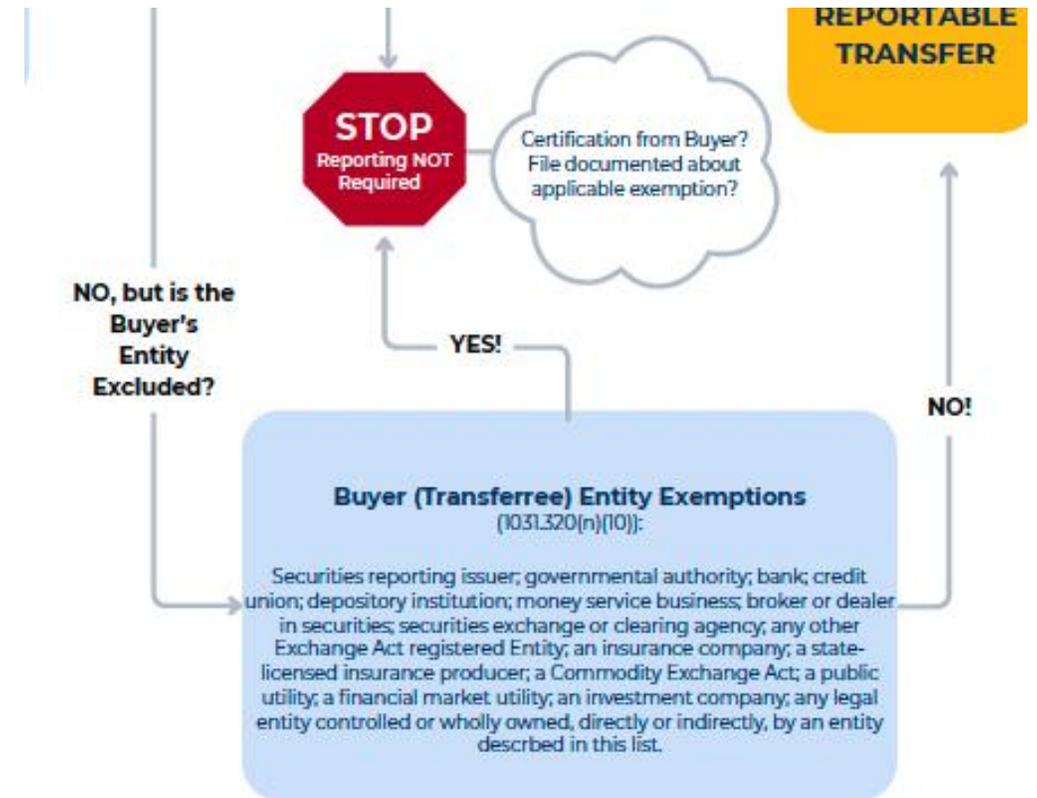
Step 5: Is there an Exemption? (Seller Side)



Step 6 for Trusts: Is there an Exemption that is applicable for this trust? (Buyer Side)

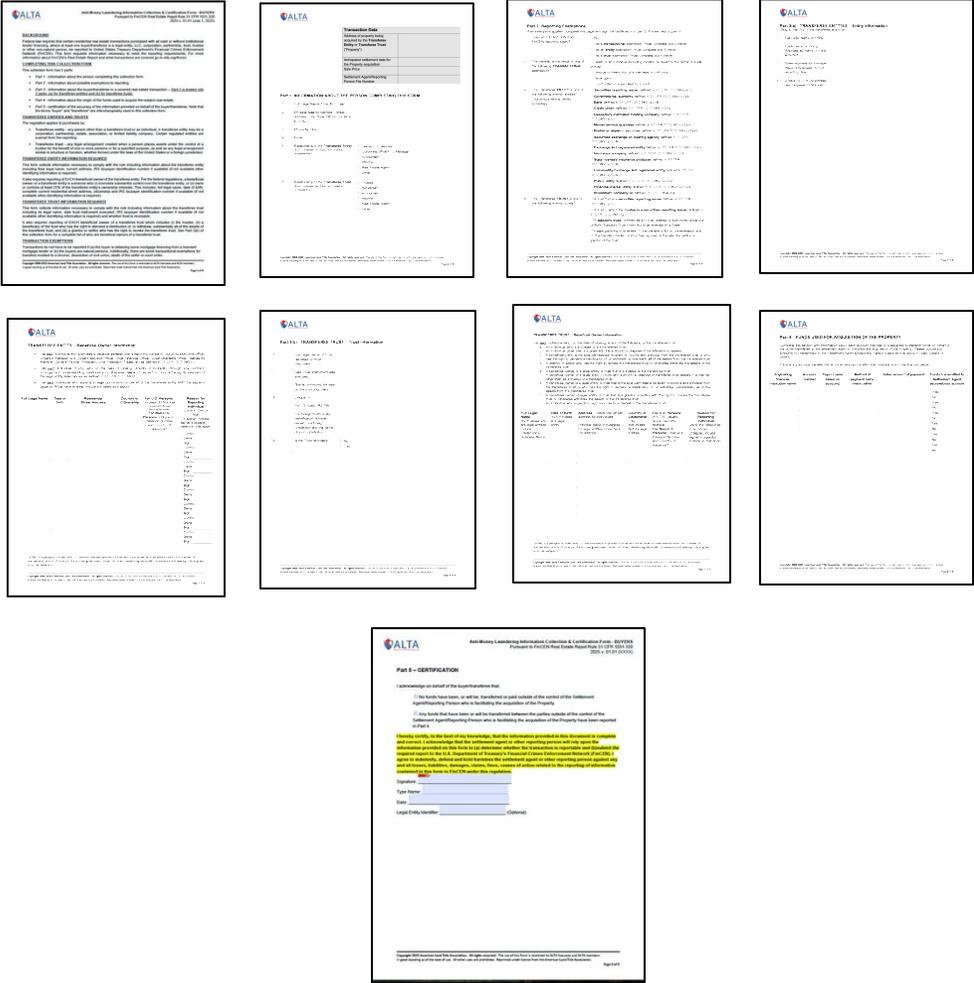


Step 6 for Entities: Is there an Exemption for the Entity? (Buyer Side)



Documenting Exemptions Using Certifications

ALTA's Buyer's Certification



- Finalized (as far as before 7/7/25)
- 9 Pages
 - Information About Person Completing
 - Exemptions
 - Details About Entity & Trust
 - Funds for Transaction
 - Certification Signature Page
- Review here when applicable

Exemption Documentation - Seller

- ALTA Certification Documents Seller Exemptions
 - Death
 - Divorce or Dissolution
 - Transfer to bankruptcy estate
 - Court order or supervised by a court
- Does an Exemption Apply?
- Still Signed By Person Completing the Form

Part 2: Reporting Exemptions

If an exemption applies, complete this page and sign the certification in part 4. If none, skip to part 3.

1	Does an EXEMPTION from FinCEN reporting apply?	<input type="checkbox"/> No <input type="checkbox"/> Yes a transactional exemption (must complete box 2 below)
2	Which of the following TRANSACTIONAL exemptions is the reason you are selling the property? (see 31 CFR 1031.320(b)(2))	<input type="checkbox"/> Death of an individual including transfer pursuant to the terms of a will or trust <input type="checkbox"/> Divorce or dissolution of a marriage or civil union <input type="checkbox"/> Transfer to a bankruptcy estate <input type="checkbox"/> Court order or supervised by a court

Exemption Documentation - Buyer

- ALTA Certification Documents Buyer Exemption
- Does an Exemption Apply?
 - Government entities
 - Supervised heavily by government entity
- Still Signed By Person Completing the Form

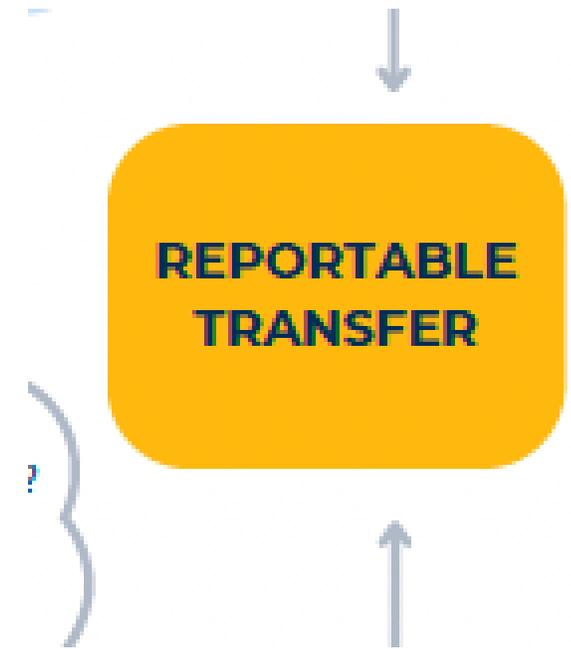


Part 2: Reporting Exemptions

If an exemption applies, complete this page and sign the certification in part 5. If none, skip to part 3.

1	Does an EXEMPTION from FinCEN reporting apply?	<input type="checkbox"/> No <input type="checkbox"/> Yes a transactional exemption (must complete box 2 below) <input type="checkbox"/> Yes an entity exemption (must complete box 3 below) <input type="checkbox"/> Yes a trust exemption (must complete box 4 below)
2	The transfer is the result of one of the following TRANSACTIONAL exemptions?	<input type="checkbox"/> Death of an individual including transfer pursuant to the terms of a will or trust <input type="checkbox"/> Divorce or dissolution of a marriage or civil union <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Court order or supervised by a court
4	The Transferee ENTITY is one of the following exempt entities? (including a wholly owned subsidiary)	<input type="checkbox"/> Securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i) <input type="checkbox"/> Governmental authority defined in 31 CFR 1010.380(c)(2)(ii) <input type="checkbox"/> Bank defined in 31 CFR 1010.380(c)(2)(iii) <input type="checkbox"/> Credit union defined in 31 CFR 1010.380(c)(2)(iv) <input type="checkbox"/> Depository institution holding company defined in 31 CFR 1010.380(c)(2)(v) <input type="checkbox"/> Money service business defined in 31 CFR 1010.380(c)(2)(vi) <input type="checkbox"/> Broker or dealer in securities defined in 31 CFR 1010.380(c)(2)(vii) <input type="checkbox"/> Securities exchange or clearing agency defined in 31 CFR 1010.380(c)(2)(viii) <input type="checkbox"/> Exchange Act registered entity defined in 31 CFR 1010.380(c)(2)(ix) <input type="checkbox"/> Insurance company defined in 31 CFR 1010.380(c)(2)(xii) <input type="checkbox"/> State-licensed insurance producer defined in 31 CFR 1010.380(c)(2)(xiii) <input type="checkbox"/> Commodity Exchange Act registered entity defined in 31 CFR 1010.380(c)(2)(xiv); <input type="checkbox"/> Public utility defined in 31 CFR 1010.380(c)(2)(xvi) <input type="checkbox"/> Financial market utility defined in 31 CFR 1010.380(c)(2)(xvii) <input type="checkbox"/> Investment company as defined 15 U.S.C. 80a-3(a)
6	The Transferee TRUST is one of the following exempt trusts?	<input type="checkbox"/> A trust that is a securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i) <input type="checkbox"/> A trust in which the trustee is a securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i) <input type="checkbox"/> A statutory trust - defined as any trust created or authorized under the Uniform Statutory Trust Entity Act or as enacted by a State <input type="checkbox"/> Estate planning trust where (1) the transfer is for no consideration and (2) the transferor/seller (and/or their spouse) is the also the settlor or grantor of the trust

It's Reportable.
Now What?
Gather the Details



Required Information for Buyers

Person Completing Form - Buyer

- Name, Address, Phone, Email
- Relationship to Buyer
 - Entity
 - Trust
- Questions:
 - Is it reasonable to rely on individual who completed the form?
 - Competency?



Transaction Data	
Address of property being acquired by the Transferee Entity or Transferee Trust ("Property")	
Anticipated settlement date for the Property acquisition	
Sale Price	
Settlement Agent/Reporting Person File Number	

Part 1: INFORMATION ABOUT THE PERSON COMPLETING THIS FORM

1	Full Legal Name (First, M.I., Last)	
2	Physical Mailing Address - Street Address, City, State ZIP (do not list a P. O. Box)	
3	Phone Number	
4	Email	
5	Relationship to the Transferee Entity (If you complete box 5 you don't need to complete box 6)	<input type="checkbox"/> Owner/LLC Member <input type="checkbox"/> Corporate officer/LLC Manager <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____
6	Relationship to the Transferee Trust (If you complete box 6 you don't need to complete box 5)	<input type="checkbox"/> Trustee <input type="checkbox"/> Beneficiary <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____

Entity? Gather Details

- Legal Name of Entity
- Trade Name
- Street Address of Principal Place of Business (Not a PO Box)
- Unique Id
 - US Entity – TIN
 - Foreign Entity Number



Part 3(a) –TRANSFEREE ENTITIES – Entity Information (Skip to Part 3(b) if the transferee is a trust)

1	Full Legal Name of Entity	
2	Trade name or "doing business as" name (if none, write N/A)	
3	Street Address for Principal Place of Business (do not list a P.O. Box)	
4	Unique ID: (For US entities, use Taxpayer ID Number)	

Buyer Entity – BOI Information

- Control
- Own
- Sign



TRANSFEREE ENTITY – Beneficial Owner Information

- List each individual who exercises substantial **control** over a reporting company, including executive officer or senior manager (e.g., Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, Treasurer) as defined in 31 CFR 1010.380(d)(1).
- List each individual, if any, who on the date of closing, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, **owns** 25 percent or more of the equity interests of the legal entity listed above as defined in 31 CFR 1010.380(d).
- List each individual who expects to **sign** documents on behalf of the transferee entity AND the signer's capacity. *Must have at least one person listed as a signor.*

Full Legal Name	Date of Birth	Residential Street Address	Country of Citizenship	For U.S. Persons: Taxpayer ID Number (commonly Social Security Number) For Non-U.S. Persons: Unique ID, Passport Number and Country of Issuance ^a	Reason for Reporting Individual Control, Own or Sign (if signer, include signer's capacity) – select all that apply
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:
					<input type="checkbox"/> Control <input type="checkbox"/> Owns <input type="checkbox"/> Sign:

^a In lieu of a passport number, Non-U.S. Persons may also provide a Social Security Number, an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

Trust? Gather Details

- Full Legal Name from Trust Instrument
- Date of Execution
- Unique ID
 - US – IRS TIN
 - Foreign – TIN Issued by Foreign Jurisdiction and Name
- Is the Trust Revocable?



Part 3(b) – TRANSFEREE TRUST – Trust Information

1	Full Legal Name of Trust (as listed on trust instrument)	
2	Date Trust instrument was executed (this is commonly the date on the trust document)	
3	Unique ID: <i>For US trusts, IRS TIN</i> <i>For foreign trusts, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction</i>	
4	Is the Trust revocable?	<input type="checkbox"/> No <input type="checkbox"/> Yes

Reasons for Reporting Individual with Relationship with Trust

List each individual who, on the date of closing, is any of the following of the transferee trust:

- a. An individual who is a trustee of the transferee trust
- b. An individual other than a trustee with the authority to dispose of transferee trust assets
- c. A beneficiary who is the sole permissible recipient of income and principal from the transferee trust or who has the right to demand a distribution of, or withdraw, substantially all of the assets from the transferee trust
- d. A grantor or settlor who has the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust
- e. A beneficial owner of a legal entity or trust that is a trustee or the transferee trust
- f. A beneficial owner of a legal entity or trust with authority to dispose of transferee trust assets in a manner other than as a trustee of a transferee trust
- g. A beneficial owner of a legal entity or trust that is the sole permissible recipient of income and principal from the transferee trust or who has the right to demand a distribution of, or withdraw, substantially all of the assets from the transferee trust
- h. A beneficial owner of legal entity or trust that is a grantor or settlor with the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust
- i. An individual who expects to sign documents on behalf of the transferee trust

Required Information for Sellers

But What About the Seller?

- Individual Information
- Entity Information
- Trust Information

Person Completing the Form

- Name, Address (no PO Box), Phone, Email
- Relationship to Seller
- If Seller is trust or Entity, relationship to Entity or Trust
- Questions:
 - Is it reasonable to rely on individual who completed the form?
 - Competency?

Transaction Data	
Address of property being acquired by the Transferee Entity or Transferee Trust ("Property")	
Anticipated settlement date for the Property acquisition	
Sale Price	
Settlement Agent/Reporting Person File Number	

Part 1: INFORMATION ABOUT THE PERSON COMPLETING THIS FORM

1	Full Legal Name (First, M.I., Last)			
2	Physical Mailing Address - Street Address, City, State ZIP (do not list a P.O. Box)			
3	Phone Number			
4	Email			
5	Relationship to the Seller/Transferor	<input type="checkbox"/> Individual Seller <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____		
6	If Seller is a Trust or Entity- Relationship to the Transferor Entity or Trust	<table border="0"> <tr> <td> Transferor Entity <input type="checkbox"/> Owner/LLC Member <input type="checkbox"/> Corporate Officer/LLC Manager <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____ </td> <td> Transferor Trust <input type="checkbox"/> Trustee <input type="checkbox"/> Beneficiary <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____ </td> </tr> </table>	Transferor Entity <input type="checkbox"/> Owner/LLC Member <input type="checkbox"/> Corporate Officer/LLC Manager <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____	Transferor Trust <input type="checkbox"/> Trustee <input type="checkbox"/> Beneficiary <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____
Transferor Entity <input type="checkbox"/> Owner/LLC Member <input type="checkbox"/> Corporate Officer/LLC Manager <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____	Transferor Trust <input type="checkbox"/> Trustee <input type="checkbox"/> Beneficiary <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Other _____			

Information about Individual Seller

- Name
- Date of Birth
- Residential Address (No PO Box)
- Unique ID
 - Taxpayer ID (SSN typically)
 - Foreign? Unique ID, Passport Number, Country of Issuance

Part 3(a) –TRANSFEROR - Individual Information

(Skip to Part 3(b) if the transferor is an entity or Part 3(c) if transferor is a trust)

1	Full Legal Name (First, MI, Last)	
2	Date of Birth	
3	Residential Street Address after settlement (do not list a P.O. Box)	
4	Unique ID: For U.S. Persons: Taxpayer ID Number <i>(commonly Social Security Number)</i> For Non-U.S. Persons: Unique ID, Passport Number and Country of Issuance ^a	

Part 3(b) –TRANSFEROR ENTITY INFORMATION

1	Full Legal Name of Entity	
2	Trade name or "doing business as" name (if none, write N/A)	
3	Street Address for Principal Place of Business (do not list a P.O. Box)	
4	Unique ID: For U.S. entities: Taxpayer ID Number For Non-U.S. Entities: Foreign Tax ID number or entity registration and name of the jurisdiction	

^a In lieu of a passport number, Non-U.S. Persons may also provide a Social Security Number, an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

Information about Entity Seller

- Full Legal Name of Entity
- Trade Name or d/b/a
- Street Address (No PO Box)
- Unique ID
 - Taxpayer ID
 - Foreign? Foreign Tax ID number or foreign registration and name of the jurisdiction

Part 3(a) –TRANSFEROR - Individual Information

(Skip to Part 3(b) if the transferor is an entity or Part 3(c) if transferor is a trust)

1	Full Legal Name (First, MI, Last)	
2	Date of Birth	
3	Residential Street Address after settlement (do not list a P.O. Box)	
4	Unique ID: For U.S. Persons: Taxpayer ID Number <i>(commonly Social Security Number)</i> For Non-U.S. Persons: Unique ID, Passport Number and Country of Issuance ^a	

Part 3(b) –TRANSFEROR ENTITY INFORMATION

1	Full Legal Name of Entity	
2	Trade name or "doing business as" name (if none, write N/A)	
3	Street Address for Principal Place of Business (do not list a P.O. Box)	
4	Unique ID: For U.S. entities: Taxpayer ID Number For Non-U.S. Entities: Foreign Tax ID number or entity registration and name of the jurisdiction	

^a In lieu of a passport number, Non-U.S. Persons may also provide a Social Security Number, an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

Information about Trust Seller

- Full Legal Name of Trust
- Date Executed
- Unique ID
 - IRS TIN
 - Foreign, Tax ID Number from foreign jurisdiction and name of jurisdiction
- Trustee
 - Full legal name (if entity include Trade Name or d/b/a)
 - Address
 - Residential Street for Individual
 - Principal Place of Business
 - Unique ID information

Part 3(c) –TRANSFEROR TRUST INFORMATION

1	Full Legal Name of Trust (as listed on trust instrument)	
2	Date Trust instrument was executed (this is commonly the date on the trust document)	
3	Unique ID: <i>For US trusts, IRS TIN</i> <i>For foreign trusts, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction</i>	

TRANSFEROR TRUST – Trustee Information

List each individual or entity who is a trustee of the transferor trust

Full Legal Name (for trustees who are legal entities, include Trade/Doing Business Name)	Address – residential street address for individuals; Principal place of business for legal entities (must be a US address)	<i>For U.S. Persons: IRS TIN (usually Social Security Number)</i> <i>For Non-U.S. Persons: Unique ID, Passport Number and Country of Issuance^b</i>

^b In lieu of a passport number, Non-U.S. Persons may also provide a Social Security Number, an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

Funds Used for Acquisition of Property

- Originating Financial Institution Name
- Account Number
- Payor (Name on Account)
- Method of Payment
- Dollar Amount of Payment
- Funds Transmitted to Settlement Agent Escrow/Trust Account
 - Yes?
 - No?



Part 4 – FUNDS USED FOR ACQUISITION OF THE PROPERTY

Complete this section with information about each account that has or is expected to transmit funds on behalf of the buyer/transferee to the settlement agent to complete the acquisition of the Property. Please include any amounts not transmitted to the Settlement Agent's/Reporting Person's escrow/trust account (paid outside of closing).

If this is a gratuitous transfer that is not an exempt transfer, then indicate N/A in the first box below.

Originating financial institution name	Account number	Payor (name listed on account)	Method of payment (wire, check, other)	Dollar amount of payment	Funds transmitted to Settlement Agent escrow/trust account
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No
					<input type="checkbox"/> Yes <input type="checkbox"/> No

Certification

- Required for Reasonable Reliance of Beneficial Ownership Information
 - In writing
 - Signed
- REMINDER: Entire Certification Must Be Stored 5 Years
 - Designation Agreement?
 - FinCEN Acknowledgment of Receipt?

Part 5 – CERTIFICATION

I acknowledge on behalf of the buyer/transferee that:

- No funds have been, or will be, transferred or paid outside of the control of the Settlement Agent/Reporting Person who is facilitating the acquisition of the Property.
- Funds have been or will be transferred between the parties outside of the control of the Settlement Agent/Reporting Person who is facilitating the acquisition of the Property.

I hereby certify, to the best of my knowledge, that the information provided in this document is complete and correct. I acknowledge that the settlement agent or other reporting person will rely upon the information provided on this form to (a) determine whether the transaction is reportable and (b) submit the required report to the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN). I agree to indemnify, defend and hold harmless settlement agent or other reporting person against any and all losses, liabilities, damages, claims, fines, causes of action related to the reporting of information contained in this form to FinCEN under this regulation.

Signature: _____

Type Name: _____

Date: _____

Legal Entity Identifier _____ (Optional)

Information About the Property

Street Address

Legal Description

Date of Closing

CAUTION:

We love being helpful.
Being overly helpful
comes with risk.

Unauthorized Practice of Law

Do you really know the answer?

THANK YOU.

Questions?