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Agenda

- ▶ FinCEN Overview
- ▶ Identifying Reportable Transactions
- ▶ Gathering the Data
- ▶ Reporting
- ▶ Educating Your Customer

How many of you heard of the new
FinCEN Rule?



When does it become effective?



Why?



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What is a Residential Real Estate Report (RRER)?

70258

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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Chapter X

RIN 1506-AB54

Anti-Money Laundering Regulations for Residential Real Estate Transfers

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Final rule.

SUMMARY: FinCEN is issuing a final rule to require certain persons involved in real estate closings and settlements to submit reports and keep records on certain non-financed transfers of residential real property to specified legal entities and trusts on a nationwide basis. Transfers made directly to an individual are not covered by this rule. This rule describes the circumstances in which a report must be filed, who must file a report, what information must be provided, and when a report is due. These reports are expected to assist the U.S. Department of the Treasury, law enforcement, and national security agencies in addressing illicit finance vulnerabilities in the U.S. residential real estate sector, and to curtail the ability of illicit actors to anonymously launder illicit proceeds through transfers of residential real property, which threatens U.S. economic and national security.

DATES: Effective December 1, 2025.

ADDRESSES: The FinCEN Regulatory Support Section at 1-800-767-2825 or electronically at frs@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Among the persons required by the Bank Secrecy Act (BSA) to maintain anti-money laundering and countering the financing of terrorism (AML/CFT) programs are "persons involved in real estate closings and settlements."² For many years, FinCEN has exempted such persons from comprehensive regulation under the BSA. However, information received in response to FinCEN's geographic targeting orders relating to non-financed transfers of residential real estate (Residential Real Estate GTOs) has demonstrated the need for increased transparency and further regulation of this sector. Furthermore, the U.S. Department of the Treasury (Treasury)

has long recognized the illicit finance risks posed by criminals and corrupt officials who abuse opaque legal entities and trusts to launder ill-gotten gains through transfers of residential real estate. This illicit use of the residential real estate market threatens U.S. economic and national security and can disadvantage individuals and small businesses that seek to compete fairly in the U.S. economy.

Earlier this year, pursuant to the BSA's authority to impose AML regulations on persons involved in real estate closings and settlements, FinCEN proposed a new reporting requirement. Under the proposed rule, certain persons involved in real estate closings and settlements would be required to report on certain transfers that Treasury deems high risk for illicit financial activity—namely, non-financed transfers of residential real property to legal entities and trusts.

FinCEN is now issuing a final rule that adopts the proposed rule with some modifications. The final rule imposes a streamlined suspicious activity report (SAR) filing requirement under which reporting persons, as defined, are required to file a "Real Estate Report" on certain non-financed transfers of residential real property to legal entities and trusts. Transfers to individuals, as well as certain transfers commonly used in estate planning, do not have to be reported. The reporting person for any transfer is one of a small number of persons who play specified roles in the real estate closing and settlement, with the specific individual determined through a cascading approach, unless superseded by an agreement among persons in the reporting cascade. The reporting person is required to identify herself, the legal entity or trust to which the residential real property is transferred, the beneficial owner(s) of that transferee entity or transferee trust, the person(s) transferring the residential real property, and the property being transferred, along with certain transactional information about the transfer.

The final rule adopts a reasonable reliance standard, allowing reporting persons to rely on information obtained from other persons, absent knowledge of facts that would reasonably call into question the reliability of that information. For purposes of reporting beneficial ownership information in particular, a reporting person may reasonably rely on information obtained from a transferee or the transferee's representative if the accuracy of the information is certified in writing to the best of the information provider's own knowledge.

FinCEN has sought to minimize burdens on reporting persons to the extent practicable without diminishing the utility of the Real Estate Report to law enforcement and believes the final rule appropriately balances the collection of information that is highly useful to Treasury, law enforcement, and national security agencies against the burdens associated with collecting that information, particularly on small businesses.

II. Background

A. Addressing High-Risk Transfers of Residential Real Estate

1. Authority To Require Reports From Persons Involved in Real Estate Closings and Settlements

The BSA is intended to combat money laundering, the financing of terrorism, and other illicit financial activity.³ The purposes of the BSA include requiring financial institutions to keep records and file reports that "are highly useful in criminal, tax, or regulatory investigations or proceedings" or in the conduct of "intelligence or counterintelligence activities, including analysis, to protect against international terrorism."⁴ The Secretary of the Treasury (Secretary) has delegated the authority to implement, administer, and enforce compliance with the BSA and its implementing regulations to the Director of FinCEN.⁵

The BSA requires "financial institutions" to establish an AML/CFT program, which must include, at a minimum, "(A) the development of internal policies, procedures, and controls; (B) the designation of a compliance officer; (C) an ongoing employee training program; and (D) an independent audit function to test programs."⁶ The BSA also authorizes the Secretary to require financial institutions to report any suspicious transaction relevant to a possible violation of law or regulation.⁷ Among the financial institutions subject to these

U.S. Treasury

Financial Crimes Enforcement Network

Real Estate Report

OMB No. 1506-0080

Version number: READ-ONLY

Release Date: 12/01/2025

Home

Reporting Person & Property Information

Transferee Information

Transferor Information

Payment Information

Instructions

Validate

Finalize

Save

Print

Ready to File

Report Preparation & Submission Instructions:

1. Complete the report in its entirety with all required information. Click [Instructions](#) for help.

2. Click [Validate](#) to ensure all entered data is properly formatted and that all required fields are completed.

3. Click [Finalize](#) to sign with your PIN and lock the entries in the report in preparation for submission. Click [Edit Report](#) to unlock and make edits as needed.

4. Click [Save](#) to retain a local copy of the report (this can be done at any time during report preparation).

5. (Optional) Click [Print](#) to print a hard copy of your finalized report.

6. Click [Ready to File](#) (activated after the report is finalized and saved locally) to [begin the submission process](#).

* Filing name

Filing Information

1. * Type of filing

☐ a. Initial report

☐ b. Correct/Amend prior report

☐ c. FinCEN directed back-filing

Prior report BSA Identifier (BSA ID)

2. Date prepared

(Auto-filled when report is finalized)

3. Note to FinCEN

¹ Section 6101 of the AML Act, codified at 31 U.S.C. 5318(h), amended the BSA's requirement that financial institutions implement AML programs to also combat terrorist financing. This rule refers to "AML/CFT program" in reference to the current obligation contained in the BSA.

² 31 U.S.C. 5312(a)(2)(U).

³ See 31 U.S.C. 5311, Section 6003(i) of the Anti-Money Laundering Act of 2020 defines the BSA as section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), Chapter 2 of Title I of Public Law 91-508 (12 U.S.C. 1951 et seq.), and 31 U.S.C. chapter 53, subchapter II, AML Act, Public Law 116-263, Division F, section 6003(i) (Jan. 1, 2021). Under this definition, the BSA is codified at 12 U.S.C. 1829b and 1951-1960, and 31 U.S.C. 5311-5314 and 5316-5336, including notes thereto. Its implementing regulations are found at 31 CFR Chapter X.

⁴ 31 U.S.C. 5311(f).

⁵ Treasury Order 180-01, Paragraph 3(a) (Jan. 14, 2020), available at <https://home.treasury.gov/about/press-releases/pr01-180-01>.

⁶ 31 U.S.C. 5318(h)(1)(A)-(D).

⁷ 31 U.S.C. 5318(g).

When is it reportable?

Three things the transaction must be:

1. Residential;
2. A transfer without an institutional lender; and
3. The Transferee (Buyer) is an entity or trust.

Who is responsible for reporting?

The Reporting Cascade:

- (1) The person listed as the closing/settlement agent on the closing/settlement statement
- (2) The person that prepares the settlement statement (if split closing, the obligation is buyer's side)
- (3) The person that files the deed or transfer instrument with the recorder's office
- (4) The title insurance underwriter
- (5) The person that disburses the funds in connection with the transfer
- (6) The person that provides a title report
- (7) The person that prepares the deed or other instrument of transfer

The cascade includes only persons engaged as a business in handling real estate closing & settlement service

What is the liability for not reporting?

Mens Rea	Fine or Penalty?	Criminal?
Negligent?	Not more than \$1,394 per violation; up to \$108,489 for a pattern	No
Willful?	Criminal – up to \$250,000 Civil – Not more than the greater amount involved in the transaction (not to exceed \$278,937) or \$69,733	Yes, up to five years in prison

Identifying Reportable Transactions

- ▶ Don't recreate the wheel - find existing resources
- ▶ Who is responsible for identifying if it's reportable?
- ▶ What is the plan, what if the plan changes?
- ▶ How do you indicate in your file that it's reportable?
- ▶ When are you reviewing the file?
- ▶ Communicate the plan

Gathering Data

- ▶ Who is gathering the data?
- ▶ When are they collecting the data (must be prior to closing)
- ▶ Where is the data being stored?
- ▶ Lean into existing tech and resources (your TPS or vendors)
- ▶ Low-cost tech - FinCEN Fillable Form when available
- ▶ Using a vendor does not remove your liability
- ▶ Keep designation agreement & the certification form, but you do not need to keep the RRER form - think NPI
- ▶ What is your “push back” plan?

Reporting

- ▶ Who will report?
- ▶ When will they report? Will it be per file or a batch of reporting?
- ▶ How will they report?
 - ▶ Uploading the form(s)
 - ▶ TPS/vendor integrations

Educating your Customer

- ▶ Who is your customer - realtors, hard money lenders, investors, attorneys?
- ▶ Who is providing the education?
 - ▶ Internal staff
 - ▶ Underwriters
- ▶ When are you providing education? (don't wait!)
- ▶ What material are you providing?
 - ▶ Look for resources from ALTA and underwriters



Thanks for attending!

