

Beginning **March 1, 2026**, certain real estate professionals involved in real estate closings and settlements **nationwide** are **required** to report information to **FinCEN** about **non-financed transfers of residential real estate**. There are exceptions that apply to certain types of transfers, entities, and trusts. We will carefully evaluate the specific facts of each individual transfer to determine whether it constitutes a reportable transfer.

Residential Real Estate Reporting Quick Reference Guide

A transfer is reportable to FinCen when all four 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; and
4. An exception does not apply

What does FinCen deem 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 (*ie: Houses, Apartments, Apartment Complexes, Mixed Use Properties, Condominiums, Townhouses*);
- 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.
- Farmland containing a residential structure (*occupancy of the structure is irrelevant*) .
- Commercial buildings containing one to four families units on the premises. (*There is no exemption for “Intended Commercial Use”, if the property falls within the FinCen definition then it is reportable*)
- Land contracts
- Manufactured and Mobile Homes (*This rule applies to transfers evidenced by a deed or similar instruments. If the manufactured or mobile home is still personal property, and the land is not transferred, it is potentially not reportable. If the new buyer intends to build a 1-4 family structure on the property which could include the manufactured or mobile home and/or if the buyer intends to affix it to the property.*)

Which types of transfers does FinCen deem not meeting the criteria for a reportable transfer?

The following transfers are **excepted** from the definition of a reportable transfer. A transfer **does not need to be reported** if it meets any of the following criteria.

- It is a transfer that is a grant, transfer, or revocation of an easement.
- It results from the death of an individual, whether pursuant to the terms of a will, the terms of a trust, the operation of law, or by contractual provision.
- It is incidental to divorce or dissolution of a marriage or civil union.
- It is made to a bankruptcy estate.

- It is supervised by a court in the United States.
- It is 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.
- It is made to a qualified intermediary for the purposes of a like-kind exchange (see Section 1031 of the Internal Revenue Code).
- It does not have a reporting person.

What does FinCen deem 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 FinCen rule as non-financed transfers that must be reported if other criteria making a transfer reportable are met. This includes, but not limited to: Hard Money Lenders, Lending Institutions not subject to AML and SAR, Private Financing (Private Trusts/Entities and Private Individuals).

What is a transferee entity and a transferee trust?

A **Transferee Entity** is defined as any person other than a transferee trust or an individual. For example, a transferee entity may be a corporation, partnership, estate, association, or limited liability company.

Statutory trusts, which are trusts created or authorized under the Uniform Statutory Trust Entity Act or as enacted by a state, are also considered transferee entities, rather than transferee trusts, for the purposes of this reporting requirement. There are 16 kinds of entities that are exempt from the definition of a transferee entity.

Which types of entities do not meet the criteria of a transferee entity?

The following regulated entities are **excepted** from the definition of a transferee entity. Transfers to these types of entities **do not need to be reported**.

1. Securities reporting issuer
2. Governmental authority
3. Bank
4. Credit union

5. Depository institution holding company
6. Money services business
7. Broker or dealer in securities
8. Securities exchange or clearing agency
9. Other Exchange Act registered entity
10. Insurance company
11. State-licensed insurance producer
12. Commodity Exchange Act registered entity
13. Public utility
14. Financial market utility
15. Registered investment company
16. Subsidiary of an excepted entity

A **Transferee Entity** 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.

Which types of trusts do not meet the criteria of a transferee trust?

These following trusts are **excepted** from the definition of a transferee trust. With the exception of transfers to a statutory trust, transfers to these types of trusts **do not need to be reported**.

1. Securities reporting issuer
2. Trusts that have a trustee that is a securities reporting issuer
3. Statutory trust*
4. Subsidiary of an exempted trust

****Note: A statutory trust is treated as a transferee entity and, thus, may need to be reported.***

Addition General Information:

- If the transfer is reportable and either party, Buyer or Seller, in the transaction is/are unwilling to provide the **required** information or provides incomplete information, the transaction will be halted until the Federal requirements are met.
***** Failure to file a complete FinCen report when a report is required can subject the "Reporting Person" to severe penalties, including but not limited to substantial fines and/or imprisonment up to 5 years.***
- Transfers with ZERO consideration, including gifts, are reportable, if no approved exception applies.
- Transfers Post-Closing (ie: Quit Claim Deed) to an Entity or Trust are reportable, even with ZERO consideration. There is an exemption for spouses for Estate Planning purposes, there is no similar exemption for a gratuitous transfer to an entity or non-exempt trust.

