

ALTA's FAQs

FinCEN's Residential Real Estate Reporting Rule

(As of September 25, 2025, at 3:25 PM Eastern Time)

The final rule on which these FAQs are based may be found at:

<https://www.govinfo.gov/content/pkg/FR-2024-08-29/pdf/2024-19198.pdf> and

<https://www.fincen.gov/rre>

CAUTION: These FAQs have been created to aid ALTA Members. The reporting person under the Residential Real Estate Report may have different standards in place that could be different than what is answered herein.

Note: These FAQs are subject to change based upon more information provided by FinCEN to ALTA.

Section 1: General Information, 31 C.F.R. § 1031.320(a)

1. **Unwilling Buyer or Seller.** If a party is unwilling to provide the required information, does the closing have to be stopped?

The rule states in the comments "[t]he 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." 89 F.R. 70264. **Failure to file the report when a report is due can subject the "Reporting Person" to severe penalties, including substantial fines and/or imprisonment up to 5 years.**

The Residential Real Estate Report is a type of Suspicious Activity Report. **FinCEN has also told ALTA and other land title associations that filing a Suspicious Activity Report is not a solution if the Buyer or Seller refuses to provide you information.**

2. **Zero Consideration:**

- a. **Do transfers with no consideration (including gifts) have to be reported?**

Yes, if no other exemption applies. There is no threshold like there was with the Geographic Targeting Orders that pre-dated this new rule. FinCEN states: "Furthermore, the rule does not adopt suggestions to include a dollar threshold for reporting. Low value non-financed transfers to legal entities and trusts, including gratuitous ones for no consideration, can present illicit finance risks and are therefore of interest to law enforcement." 89 F.R. 70269.

6. **All transactions?** Should reportable information be collected on all transactions before determining reportability?

There is no obligation to collect reportable information on all transactions. Every settlement agent will have to create their own workflow to determine which transactions are potentially reportable in order to determine whether an ALTA Certification Form needs to be sent out to determine whether an exemption applies.

Section Two: Is this Transaction Reportable? 31 C.F.R. § 1031.320(b)

1. Types of Properties:

- a. **Apartment Complexes:** Would the purchase of the entire complex be reportable?

Yes, potentially. It depends of the size of the apartment complex. If it is a small 1–4-unit building, then yes the transaction is reportable. If it is 5 units or more, then no the transaction is not reportable.

FinCEN’s discussion states: “FinCEN further notes that the definition is meant to include property such as single-family houses, townhouses, condominiums and cooperatives...as well as entire apartment buildings designed for one to four families. Furthermore, transfers of such properties may be reportable even if the property is mixed use, such as a single-family residence that is located above a commercial enterprise.” 89 F.R. 70266.

- b. **Mixed-Use Property:** Is a mixed-use property (part residential, part commercial) reportable?

Yes. FinCEN’s discussion states: “...transfers of such properties may be reportable even if the property is mixed use, such as a single-family residence that is located above a commercial enterprise.” 89 F.R. 70266.

- c. **Condominiums, Townhouses, and Co-Ops:** If the building has more than 4 units, is the transfer exempt?

No. An individual condominium, townhouse, or co-op unit would fall within the reporting rule. See 31 CFR § 1031.320(b)(1)(i).

Reportable. There is no exemption for *intended commercial use*; if the property fits within the definition of residential property under § 1031.320(b)(1) then the transaction is reportable.

- g. Manufactured and Mobile Homes.** With manufactured and mobile homes, they are not considered by many states as residential until the structure is affixed to the real property. Would the sale of the manufactured or mobile home trigger reporting? **It depends on whether the transaction includes the land underneath the manufactured or mobile home.** 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. A settlement agent would have to determine whether the new buyer intends to build a 1-4 family structure on the property which could include the manufactured or mobile home if the buyer intends to affix it to the property. A reminder here that there is no penalty for over-reporting transactions.

2. Exemptions Due to Transaction Not Being Reportable per FinCEN under 31 C.F.R. § 1031.320(b)(2)

- a. Still report?** If an exemption applies, does a settlement agent have to file anything with FinCEN?
No. But a settlement agent may want to retain the collection form to show FinCEN or a state auditor why it was determined a transaction did not have to be reported.
- b. Exempt only on Seller or Buyer Side:** If the transfer is exempt on only the Transferor/Buyer or Transferee/Seller side, is the whole transfer exempt?
Yes. If an exemption applies to either the Seller or Buyer, the whole transaction is exempt. See 31 CFR §§ 1031.320(n)(10) (ii) and (n)(11)(ii) for a list of exemptions.
- c. Transfers by Personal Representatives/Executors.**
- i. To Beneficiary's Entity or Trust.** If a beneficiary under a will or an heir wants the property transferred to an entity or trust rather than their personal name, is the transaction reportable?
Maybe. The rule states a reportable transfer does not include a "[t]ransfer resulting from 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." 31 C.F.R. § 1031.320(b)(2)(ii). So, the question

not agree that potential reporting persons involved in sales of foreclosed property should be treated differently from other transfers, as such sales, where the property is sold to a third party, do not necessarily present a lower risk for money laundering.” 89 F.R. 70269.

- iii. **Tax Sales.** If there is a transfer to an entity or trust by a Sheriff or private selling officer due to a tax sale, is the transfer reportable?

No, it is not reportable if it is due to a judicial order. The final rule discusses “transfers required as a result of judicial determination in the United States” that “are generally publicly documented and subject to oversight.” 89 F.R. 70269.

- iv. **HOA Lien Foreclosure.** If there is a judgment resulting from an HOA lien foreclosure, is the resulting transfer reportable?

No, it is not reportable if it is due to a judicial order. The final rule discusses “transfers required as a result of judicial determination in the United States” that “are generally publicly documented and subject to oversight.” 89 F.R. 70269.

f. **Trusts.**

- i. **Exemption.** Which trusts are exempt?

The rule states a reportable transfer does not include a... “[t]ransfer 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)”. This does not include family trusts where there are settlors/grantors who are not married or trusts where the original settlor/grantor has died. Focus should be on the settlors and grantors, not the trustee. It is always prudent to have the Buyer determine whether they are exempt with their attorney.

Note: The discussion by FinCEN where it discussed broadening the exemption but declined to do so. 89 F.R. 70270.

- ii. **Entity?** Is there a similar exemption for entities where the beneficial owner of the LLC is the same for the Transferor/Seller and Transferee/Buyer?

No.

4. **Repeat Customers like Investors, Developers, or Builders.**
 - a. **Every transaction.** Do builders have to report every transaction, or can a settlement agent use the same certification form for future transactions?
For reasonable reliance to apply to beneficial ownership information, a settlement agent must collect a certification for every transaction. A settlement agent can always prepopulate data into the collection form, but a settlement agent will need to have the form certified to the settlement agent for each transaction even if the settlement agent has reported the information before. And of course, the source of funds for each transaction may vary.

5. **Assignment of Contracts.** If the eventual Transferee/Buyer is an individual, but there was an assignment of contract involving an entity or trust wholesaler, is the transaction reportable?
No. The rule focuses on who the end Transferee/Buyer is and FinCEN specifically states "...the transferor of an interest in an assignment contract would not be reportable." 89 F.R. 70266.

Note: If the Transferee/Buyer is an entity or trust, it may be reportable.

6. **Multiple Title Policies.** If the transaction requires multiple title policies, does that affect how many reports must be filed?
No. The reporting count is based upon the number of reportable transactions involving separate deeds to a transferee/buyer.

7. **One transaction with multiple deeds.** If the transaction involves one closing but there are multiple recorded deeds, how many reports must be filed?
The amount of report filed correlates to how many deeds of reportable transactions are recorded. 3 deeds = 3 reports, 1 deed = 1 report, etc.

Section 3: Determining the Reporting Person. § 1031.320(c)

1. **Reporting Person for the Company.**
 - a. **Scope of Employment.** Is the reporting person doing so on behalf of the company for which they work?
Yes. If an employee is acting within the scope of their employment, the company is deemed to be the reporting person. 31 C.F.R. § 1031.320(c)(2).

 - b. **One Person or Many.** Can a company identify one person or many people to file the reports?

to collect and prepare the form for them because the reporting person still is responsible for the content and filing with FinCEN.

Note: Many title production platforms and other vendors are working on solutions to help collect and report the data to FinCEN. Now is a great time to reach out to title production software companies and other vendors about solutions being developed.

3. **One report or many?** On the cascade of reporting persons, do all the parties have to report or just one?
Just one party has to report. Either it is the highest party on the cascade or the person that agrees under a designation agreement.
4. **Employee Liability.** Does an employee have any exposure for personal liability for failure to report rather than the settlement or title agency?
The reporting person is the company serving as the employer of the settlement agent listed on the settlement statement in regard to this rule only. 31 CFR § 1031.320(c)(2). However, this does not answer the question about criminal or civil liability for aiding and abetting money launderers outside of this rule.
5. **Split Closing States.** In a split-closing state, who is responsible for reporting the transaction to FinCEN?
Typically, the Buyer Side. 89 F.R. 70271 (<https://www.federalregister.gov/d/2024-19198/page-70271>). However, if there are multiple parties within the reporting cascade, a company further down the list of the cascade could agree to submit the report provided that both parties enter into an appropriate written designation agreement.
6. **Title-only Issuing Agent.** If a company is a title-only issuing agent with no settlement role, does the company still have to report?
Technically, no, BUT while the settlement agent and person preparing the closing or settlement statement are ahead of the title-only issuing agent who may have recording obligations, however, it would be prudent to make sure someone ahead of the company has completed the filing in case FinCEN asks. See 31 C.F.R. § 1031.320(c)(1).

Note: The cascade of reporting persons also includes “the person that provides an evaluation of the status of title.” 31 C.F.R. § 1031.320(c)(vi).

Section 4: Information Concerning the Reporting Person

1031.320(d)

1. **Missed report.** What should a reporting person or company do if they realize there was a transaction that should have been reported but was not. Will there be a penalty?
Hopefully not, and a company should file the report as soon as possible. FinCEN has indicated there will be a grace period for compliance as the rule begins; however, it would be prudent to adopt auditing and retraining practices now to show a culture of compliance.

If there is a pattern of non-compliance, a reporting person should consult with their attorney.

Section 5: Information Concerning the Transferee 1031.320(f)

1. Trusts.

- a. **Certificate of Trust.** Can a Certificate of Trust be used if available in the settlement agent's state?

Probably not because in most states the Certificate of Trust will not provide the required beneficial owner information. As for the information it does provide, the certificate of trust is usually provided under penalties of perjury which would meet the reasonable reliance standard.

b. Information Collected

- i. **Minor Beneficiary.** If a minor is a beneficial owner of a trust, what information must be collected from them? Is this a problem because they do not have a driver's license or passport yet?

A minor would only be reportable in limited circumstances where they are a beneficial owner of the transferee trust because they are the beneficiary with the sole right to demand a distribution. In the event that a minor is reportable the rule provides two options. First, a settlement agent can report the guardian's information in lieu of the minor. Second, a settlement agent can report the minor's information. In either choice, you would provide the person's IRS Taxpayer ID Number. This is most commonly their social security number.

2. Entities

a. Information Reported

- i. **Multiple D/B/As.** If an entity has multiple d/b/a names, do they all have to be reported?

Yes. All d/b/a names should be reported. See 31 C.F.R. §§ 1031.320(e)(1)(i)(B), (f)(2)(ii) and (f)(3)(v)(B).

- ii. **Driver's License or Passport Numbers.** What is collected to identify a Beneficial Owner?

IRS TIN's (usually an SSN) are collected for U.S. persons. For foreign individuals, a passport number and the name for the foreign jurisdiction are collected. 31 C.F.R. § 1031.320 (e)(1)(ii)(E).

b. Beneficial Owner Determination.

- i. **Multiple Individuals in Control.** If an entity has a CEO, CFO, Treasurer, etc., are all individuals reported or just one?

It depends on whether the individual has substantial control. If each has substantial control, then yes, all are reported.

- ii. **Substantial Control.** What is substantial control of an entity?

An individual exercises substantial control over an entity if they serve as a senior officer, have authority over the appointment or removal of a senior officer or a majority of the board of directors, have substantial influence over important decisions, or have any other form of substantial control over the entity. 31 C.F.R. § 1010.380(d)(1).

- iii. **No one owns 25% or more of a company.** If there is an entity where no one owns 25% or more, is it still reportable?

Yes. There is always a person with substantial control (CEO, managing member) and a signing individual for the entity. 31 C.F.R. § 1010.380(d)(1).

- c. **Self-directed IRAs.** Are self-directed IRAs subject to this rule?

Yes. FinCEN wants to know who the beneficial owners are of entities and trusts.

3. **Marital Interest States.** If a transaction takes place in a state which laws would require that a non-titled spouse sign the deed or other document to waive a marital

Section 7: Information Concerning the Street Address § 1031.320(g)

1. **Unknown Street Address.** For the transfer of a property with an unknown street address because it has not been established by the local government, what should a reporting person put in the form?

The rule states street address (if any). An address is not required if it has not been established yet.

2. **Legal Description Longer than 1,000 characters.** The FinCEN form will only accept a legal description 1,000 characters in length but the legal description is 3 pages long. What should be put in the form?
The first 1,000 characters.

Section 8: Information Concerning Payments § 1031.320(h)

1. **REALTOR®'s holding earnest money.** If an earnest money deposit is held in a REALTOR®'s account, will the information about the REALTOR®'s account have to be reported?

Yes. Reporting is required for all funds used to purchase the property. The rule for a discussion where FinCEN acknowledges the information required is beyond what is normally provided. 89 F.R. 70275

2. **Back-to-Back Closings.** Back-to-back closings involve situation where the Buyer in the second transaction just sold their residential property in the first transactions. Since the funds do not leave the settlement agent's escrow account, should the settlement agent list their account as the source of funds?

Yes.

3. **Funds from an Entity or Trust.** If the transferee/buyer is an individual, but the funds to purchase are coming from an entity or trust, is the transaction reportable?

No. This is not "...a non-financed transfer to a transferee entity or transferee trust." 31 CFR § 1031.320(b).

4. **Difficult and New.** Won't it be difficult to get full payment information before closing?
Potentially, due to it being a new requirement. It is important to talk to customers, REALTORS®, Investors, Attorneys, etc. now before the rule starts.

5. **Contract for Deed, Bond for Deed, Land Contract.** Are Seller-backed financing transactions reportable?
Yes, if the transaction is residential property and the transferee/buyer is an entity or a trust. This assumes the Seller does not have any obligation to maintain an anti-money-laundering program and an obligation to report suspicious transactions under the Bank Secrecy Act.
6. **Seller-backed financing/Seller Carry Back.** Is seller-backed financing exempt?
No. If the seller does not have an anti-money laundering program, the transaction is still considered non-financed and potentially reportable. Some seller financing would benefit from an exemption for the requirement to comply with the SAFE ACT for NMLS+R registration but would still be a reportable transaction under this rule.
7. **Loan Amount.** If there is any amount of a loan on the property with a lender with an anti-money laundering program, is the transaction reportable? What about reporting the cash to close?
No. If there is a mortgage from a lender that has an AML requirement then the whole transaction is not reportable, and the settlement agents does not need to report on any amount of funds.
8. **Loan Assumptions.** If the Transferee/Buyer is assuming a loan, is this a reportable transaction?
This is unknown at this time but will be submitted to FinCEN for confirmation that if there is evidence the lender has an anti-money laundering program and knows the loan is being assumed by the transferee/buyer, the transaction is not reportable.
9. **Bank of Mom & Dad.** If the lender is a parent or other related person, is the transaction reportable?
Most likely yes because relatives will not have an anti-money laundering program.

Note: There is also no indication that banks will change their wire receipt information due to this rule because there is no change to the laws on what the bank must provide under this rule.

Section 11: Filing Procedures 31 C.F.R. §1031(k)

1. **Timing.** When does the Residential Real Estate Report have to be filed?

Latter of 30 days after closing or end of the month following the closing month. 31 C.F.R. § 1031.320(k)(3), (n)(4); 89 F.R. 70275-6. For example, if a closing takes place on December 14, 2025, which is reportable, the RRER must be filled by the latter of January 13, 2026 or January 31, 2026.

Note: This does not prevent a settlement agent from filing earlier.

2. **Contracts received on or after December 1 or taking place on or after December 1.**

Does this rule apply to contracts/purchase agreements received at order entry starting December 1 or for closings starting March 1, 2026?

Closings. This rule is effective for closings taking place on or after March 1, 2026, so if a reporting person's procedures require collection of information prior to March 1, 2026, those procedures begin before March 1, 2026.

3. **Last Minute Change to Entity or Trust.** Will a settlement agent have to collect the required information if the Transferee/Buyer makes a last-minute decision to put the transaction into an entity or trust?

Yes. There are no exceptions or extensions of time for a settlement agent for last minute decisions by the Transferee/Buyer.

4. **Closing Date.**

- a. **Typical Closing Date.** What is the closing date for filing purposes for most transactions?

"[T]he date on which the transferee entity or transferee trust receives an ownership interest in residential property." Typically, the date the deed is signed and delivered. 31 C.F.R. § 1031.320(k)(3), (n)(4); 89 F.R. 70275-6.

- b. **Seller-Backed Financing Closing Date.** What's the closing date for filing purposes for seller-backed financing (Sales Deed, Contract for Deed, Land Contract) where the deed is held in escrow until the contract completed?

The date the entity or trust received an ownership interest would be when the contract was signed.

- d. **Alert to Person.** If a settlement agent elects to file a SAR, can they tell the person a SAR will be filed?
Yes. Under bank anti-money laundering rules, settlement agents would not be allowed to tell a customer a SAR is being filed; however, this rule has an exemption to that rule. 31 C.F.R. § 1031.320(m).
- e. **Bank Involvement.** Why does the bank who is wiring money to the settlement agent not have a duty to provide all of this information to FinCEN if they are holding the money?
No. Banks are under requirements to file suspicious activity reports but since these transactions involve entities or trusts, there may not have been any reason for a bank to file a SAR.
3. **E-Sign.** Can the Buyer and Seller Collection forms be completed electronically or does it have to be wet-signed?
E-Sign is permissible. Wet-signed is not required. Settlement agents will want to put in place systems to collect and save the data collection form for reasonable reliance purposes.
4. **NPI.** Are there any suggestions on how to handle objections when Buyers and Sellers do not want to provide information due to confidentiality concerns?
Yes. Now is a great time to create or refurbish the customer communications settlement agents use to introduce themselves to customers and inform them about this required new rule. Then when the time comes to collect, the customer is already familiar with the potential reporting process. It is also good to designate a point person to handle these questions so the individual is ready with answers on how the settlement agent collects and stores information securely.
5. **Real Estate Agents.**
- a. **Contracts.** To prevent last-minute changes by the Buyer to vest title into an entity or trust, can Buyers and Sellers write into their contact/purchase agreement when the Buyer can no longer change their mind?
Yes, although the FinCEN RRER is silent on this. Buyers and Sellers may elect at contracting to determine when it has to be finalized whether the Buyer will be vesting title in an entity or trust.
- b. **Education.** Does ALTA have any educational materials for real estate agents?

1031 Exchanges, 8
 ALTA Certification, 3, 8, 20, 24
 Amish and Mennonite, 16
 Anti-money Laundering Program, 2
 Apartment, 3
 Assignment of Contracts, 9
 Assumptions, 19
 Beneficial Owner, 15, 16
 Beneficiary, 5, 13
 Builders, 9
 Closing, 12, 21
 Commercial Use, 4
 Condominiums, 3
 Consideration, 1
 Co-Ops, 3
 Court Order, 6
 Courtesy Recordings, 12
 D/B/As, 15
 Developer, 4, 9
 Dissolution, Divorce, 6
 Driver's License, 15, 16
 Earnest Money, 17
 Employee Liability, 11
 Entity, 5, 7, 15, 16, 17, 20, 21
 E-Sign, 23
 Estate Planning, 2
 Executors, 5
 Exemption, 1, 5
 Farm Credit, 18
 Farmland, 4
 Financing, 2, 19, 21
 Fines, 1
 Foreclosure, 6
 Geographic Targeting Orders, 1
 Gift, 2
 Hard-money, 18
 Heir, 5
 HOA, 7
 Imprisonment, 1
 Intent to Build, 20
 Investors, 9, 17
 Leasehold, 2
 Legal Description, 17
 Manufactured and Mobile Homes, 5
 Marital Interest, Dower, 15
 Minor, 13
 Mixed-Use Property, 3
 NMLS, 19
 Non-Profit Entities, 8
 NPI, 23
 Passport Numbers, 15
 Personal Representatives, 5
 Post-Closing, 2
 Prior Transactions, 12
 Private Loans, 18
 Publicly Traded Entities, 8
 Reasonable Reliance, 9, 13, 18, 20, 23
 Relocation Companies, 8
 Reporting Person, 9, 13
 Residential, 20, 21
 Self-directed IRAs, 15
 Seller-backed financing, 19
 Small Loans, 2
 Split Closing, 11
 Street Address, 17
 Substantial Control, 15
 Suspicious Activity Report, 1, 2, 22, 23
 Tax Sales, 7
 Third-party Vendors, 10
 Title-only Issuing Agent, 11
 Townhouses, 3
 Trust, 2, 5, 6, 7, 8, 9, 12, 13, 14, 16, 17, 19, 20, 21, 22, 23
 Underwriters, 12
 Vacant Property, 4
 Will, 5
 Zero Consideration, 1
 Zoning, 4