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**NEW FINCEN REPORTING REQUIREMENTS FOR TRUST-RELATED  
RESIDENTIAL REAL ESTATE TRANSFERS (EFFECTIVE MARCH 1, 2026)**

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Beginning March 1, 2026, the U.S. Treasury Department’s Financial Crimes Enforcement Network (FinCEN) will implement a sweeping new Residential Real Estate (RRE) Reporting Rule. This rule affects many non-financed residential real estate transfers—including transfers involving trusts, which are extremely common in estate planning, incapacity planning, and elder law contexts. FinCEN adopted this rule to increase transparency in real estate transactions frequently used to obscure ownership and facilitate money laundering or other illicit activity. Below is what you need to know.

**1. What Transactions Are Now Reportable?**

A residential real estate transfer becomes reportable to FinCEN when **all** the following apply:

**A. The property qualifies as “residential real property.”**

This includes:

- Single-family homes, townhouses, condominiums, and cooperatives.
- Entire buildings designed for 1–4 families.
- Vacant land intended for future residential construction.
- Mixed-use buildings (e.g. single-family residence above commercial property)

**B. The transfer is *non-financed*.**

A transaction is “non-financed” if it does not involve a mortgage or other loan from a financial institution subject to anti-money-laundering (AML) reporting rules.

This *includes*:

- All-cash purchases
  - Seller financing
  - Loans from family (“Bank of Dad”)
  - Transfers for nominal consideration (\$1 or \$10 deeds)
- All of these are reportable.

### **C. The transferee is a trust or other legal entity.**

A transfer is reportable if any transferee taking title is a:

- Revocable or irrevocable trust
  - LLC, partnership, corporation, association, estate
- These fall squarely within the new rules.

This means that routine estate planning transfers—such as placing a home into a revocable living trust—will now often require a federal filing with FinCEN.

Transfers made directly to an individual are not subject to the RRE rule.

## **2. What Information Will FinCEN Require?**

Information that must be disclosed includes:

- Property details
- Transferor and transferee information
- Identity of individuals representing the transferee
- Beneficial owners of the transferee trust (e.g., individuals with  $\geq 25\%$  ownership or substantial control)
- Total consideration paid for the property

For trusts, this may require disclosure of:

- Trustees
- Grantors
- Beneficiaries meeting the beneficial-owner definition, above

- Anyone with authority to control the trust or its assets

### **3. Who Is Responsible for Filing?**

FinCEN has created a “reporting cascade,” meaning the obligation first falls on the settlement agent or title company. However, attorneys may become responsible if no other designated reporting person is involved—especially in states where lawyers routinely handle closings. The rule applies nationwide and is not limited by purchase price.

### **4. Are Any Trust-Related Transfers Exempt?**

Certain transfers are exempt:

- Transfers resulting from death, divorce, or court order
- Transfers for no consideration made by an individual, either alone or with their spouse, to a trust of which that individual, the individual’s spouse, or both, are the settlors or grantors
- 1031 exchanges when property is being transferred to the qualified intermediary (typically in a reverse exchange; the sale out of the exchange may be reportable)
- Transfers that are a grant, transfer or revocation of an easement

However, most routine estate-planning transactions involving trusts are NOT exempt, including:

- Transferring a primary residence to a revocable living trust
  - Moving property into a family LLC or irrevocable trust for estate or tax planning purposes
  - Gifting or retitling property between related entities for nominal consideration
- All these will typically require reporting.

### **5. Is there a fee for filing the FinCEN report?**

The government provides a free e-filing system. However, there may be additional costs associated with any professionals (e.g. title company, attorney) that assist with the filing.

### **6. What is the due date for filing the FinCEN report?**

The report must be filed by the last day of the month following the month in which the date of closing occurred OR 30 days after the date of closing, whichever is later.

### **7. What Should Clients with Trusts Do Now?**

#### **A. Plan ahead for any real estate transfers.**

Expect delays, as additional personal information must now be collected and verified.

**B. Understand that additional privacy disclosures may be required.**

Clients using trusts should be aware that certain identifying information will now be disclosed to the federal government, even though it will not be made public.

**C. Notify our office before making any property transfers into or out of a trust.**

Because attorneys may become the “reporting person,” our team needs advance notice to comply with the new federal obligations and avoid penalties for late or incorrect filings.

**D. Expect updated engagement letters, questionnaires, and closing procedures.**

FinCEN requires new protocols for data collection, secure recordkeeping, and personnel training.

**E. Penalties for Non-Compliance**

FinCEN may impose **civil or criminal penalties** for willful or negligent non-compliance. Professionals and clients should take these requirements seriously.

**We Are Here to Help**

As these new obligations take effect, we will continue to guide clients through FinCEN compliance when transferring real estate to or from a trust. If you are considering any property transfers in 2026—or have a trust that owns residential real estate—please contact our office before proceeding. If you would like a consultation to review your trust structure or upcoming transactions, we are happy to assist.

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