FinCEN FAQs

Explore this list of FinCEN FAQs to quickly find out what you need to know about the new anti-money laundering (AML) rule.

What qualifies as a buyer/transferee trust? Are there exceptions to this?

According to FinCEN, a buyer/transferee trust is a legal arrangement in which a grantor places assets under a trustee's control for the benefit of others or for a specific purpose. Under this Rule, a trust is considered a transferee trust even if the property is titled in the name of the trustee instead of the trust itself.

Exceptions to reporting requirements for trusts include:

- Estate planning trust where the transfer is 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) and where the transfer does not involve any consideration
- Securities reporting issuers acting as trustees
- Statutory trusts (treated as transferee entities instead)
- Subsidiaries of exempt trusts

What qualifies as a non-financed transfer?

According to FinCEN, a non-financed transfer is any transfer that:

- Does not involve a loan or line of credit secured by the property, **or**
- Involves financing not provided by a financial institution, subject to Bank Secrecy Act (BSA), AML, and Suspicious Activity Reporting (SAR) rules.

This includes:

- All-cash purchases
- Seller carrybacks or private lender funding
- Transactions where the lender is not BSA/AML/SAR-regulated

In short: If there's no loan, or the lender isn't regulated under AML rules, it's non-financed.

What are the FinCEN AML Rule reporting requirements?

Under the AML Rule, certain transactions must be reported to FinCEN. For qualifying transactions, the report must include:

- The reporting person (typically the title settlement agent, insurance company, or title agent)
- The transferee legal entity or trust receiving ownership of the property and all the entity's beneficial owners with 25% or more ownership interest
- The transferee trust receiving ownership of the property and information related to the beneficiaries of that trust
- Any individual signing on behalf of the transferee during the transfer
- The transferor (usually the seller)
- The residential real property being transferred
- Details about the transaction itself, including the total consideration being paid, the bank source, and payment details

When must a qualifying transaction be reported?

Reports must be uploaded and filed in the BSA filing system within a 30–60-day window after closing. A reporting person must file a Real Estate Report by the later of these two dates:

- The last day of the month following the month in which the date of the closing occurred, **or**
- Thirty calendar days after the closing date

What is "Reasonable Reliance" under the FinCEN AML Rule?

Per the FinCEN AML Rule, if you are the reporting person, you can rely on information provided by others for purposes of reporting or make a determination necessary to comply with the AML Rule, as long as you have no reason to doubt its accuracy. However, when reporting beneficial ownership, that information:

- Must come directly from the transferee or their representative
- Must be certified in writing

Trust, but **verify**.

Are there exceptions to the FinCEN AML Rule?

- Aside from the exceptions to transferee entities and trusts, there are other standard exceptions to the AML Rule. Transactions in the following categories are **exempt** from reporting:
- Transfer related to an easement
- Transfer resulting from death (by will, trust, contract, or operation of law)
- Transfer related to divorce
- Transfer to a bankruptcy estate
- Transfer supervised by a court in the U.S.
- Transfer for no consideration when made to a qualifying trust, i.e., when an individual, either alone or with the individual's spouse, transfers to a trust of which that individual, that individual's spouse, or both of them are the settlor(s) or grantor(s)
- Transfer to a qualified intermediary in a 1031 Exchange
- Transfer for which there is no reporting person

What if multiple legal entities are involved in the transaction?

If multiple legal entities or trusts are receiving ownership interests, each one must be evaluated **individually**. Reporting requirements apply to **each qualifying transferee** under the Rule.

How is this Rule enforced? Will FinCEN audit transactions?

Yes. FinCEN has the authority to audit and request records to ensure compliance. Reporting persons are expected to maintain records and document reasonable reliance for at least **five years**.

How do I know if a transaction is considered reportable under the FinCEN AML Rule?

Check out our printable flowchart to determine whether a transaction is reportable under the FinCEN AML Rule.

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