

FinCEN Real Estate Report Required?



START

Is this a Residential Transaction?
(31 CFR 1031.320(b))

1-4 Families Structure ((b)(i))
Intent to Build 1-4 Families Structure ((b)(ii))
Condo or Town Home ((b)(iii))
Co-op ((b)(iv))

File documented?

STOP
Reporting NOT Required

STOP
Reporting NOT Required

YES

Is this a Non-Financed Transaction?
(31 CFR 1031.320(b))

Is the Buyer (Transferee) an Individual, Entity, or Trust?

NO

Does the Lender Have an Anti-Money Laundering (AML) Program?
(31 CFR 1031.320(i))

No Lender AML Program

Individual

Entity or Trust

File documented about applicable exemption?

STOP
Reporting NOT Required

YES

STOP
Reporting NOT Required

File documented?

Is there an exemption?
(31 CFR 1031.320(b)(2))

Buyer (Transferee) Entity Exemptions
(31 CFR 1031.320(n)(10))

Securities reporting issuer; governmental authority; bank; credit union; depository institution; money service business; broker or dealer in securities; securities exchange or clearing agency; any other Exchange Act registered entity; an insurance company; a state-licensed insurance producer; a Commodity Exchange Act registered entity; a public utility; a financial market utility; an investment company; any legal entity controlled or wholly owned, directly or indirectly, by an entity described in this list.

- Easement
- Transfer due to: death, divorce, or dissolution
- Transfer to a bankruptcy estate
- Court-supervised transfer
- Transfer 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 settlors or grantors
- 1031 exchange when a property is being transferred to the qualified intermediary (typically in a reverse exchange; the sale out of the exchange might be reportable)
- No reporting person

YES!

NO, but is the Buyer's Entity excluded?

NO, but is the Buyer's Trust excluded?

Buyer (Transferee) Trust Exemptions
(31 CFR 1031.320(n)(11))

Securities reporting issuer
Trustee is a securities reporting issuer
Statutory Trust Entity wholly owned by the above

NO!

Reportable Transfer

File documented about applicable exemption?

STOP
Reporting NOT Required

YES!