**FinCEN Residential Real Estate Rule in a Nutshell**

A Guide for Buyers, Sellers, Real Estate Agents, and Titleholders

**►What is FinCEN and the New Residential Real Estate Rule (RRER)?**

FinCEN is an acronym for the Financial Crimes Enforcement Network, a division of the U.S. Treasury Department. Their mission is to safeguard the financial system from illicit use, combat money laundering and its related crimes including terrorism, and promote national security through the strategic collection, analysis, and dissemination of financial intelligence. The new Residential Real Estate Rule which will be effective December 1, 2025, was developed to fulfill this mission by determining the beneficial owners and source of funds associated with non-financed transaction involving U.S. residential real estate.

**►How does the RRER differ from Earlier Issued Geographic Targeting Orders (GTOs)?**

The GTOs were a pilot program preceding the RRER designed to determine the beneficial owners of entities purchasing U.S. residential real estate in non-financed transactions. 75% of all residential purchases include a lender with federal anti-money laundering obligations. The GTOs and the RRER are seeking to get beneficial ownership information of the other 25% of residential transactions. The GTOs were limited in geographic scope and transaction amounts while the RRER applies to all U.S. states, territories, the District of Columbia and all Indian lands and there is no threshold dollar amount. Even zero-dollar transactions may be reportable.

**►What qualifies as a “Reportable Transaction” under the RRER?**

A reportable transfer is a non-financed transfer to a transferee entity or transferee trust of an ownership

interest in residential real property. 31 CFR §1031.320(b).

**►What is “Residential Real Property” under the RRER?**

Residential real estate in all 50 states, DC, Puerto Rico, overseas territories and Indian lands including:

• 1-4 family residential structures,

• Vacant land on which the transferee intends to build a 1-4 family residential structure,

• Unit designed for 1-4 families, and

• Shares in a cooperative housing corporation.

Single-family houses, townhouses, condominiums, cooperatives, and apartment buildings designed for 1-4 families. The property also qualifies if it is a mixed-use building, including a single-family residence above a commercial enterprise.

**►What Qualifies as an Entity or Trust under the RRER?**

A Transferee Entity is generally any person other than a transferee trust or individual, including a corporation, a limited liability company or a partnership. A Transferee Trust is any arrangement where a person places assets under the control of a trustee for the benefit of one or more persons.

**►What is a Non-Financed Transaction under the RRER?**

The term “non-financed transfer” means a transfer that does not involve an extension of credit to all transferees and that is (i) secured by the transferred residential real property; and (ii) extended by a financial institution that has both an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions under the Bank Secrecy Act. 31 CFR §1031.320(n)(5). Non-financed transactions include cash transactions, zero-dollar transfers, hard money loans, Seller financing and familial loans.

**►What Information to be collected from the Parties and Provided to FinCEN in a Reportable Transaction?**

Your settlement agent will provide you with a Buyer or Seller Data Collection Form. These forms were developed by the American Land Title Association (ALTA) to ensure uniformity in data collection. Generally, the categories of information include Buyer and Seller identification, government IDs, source of funds, include amounts, account ownership and information, and details regarding the closing and the real property.

**►Who is Responsible to Report the Collected Data to FinCEN?**

Primary responsibility to report the data collected regarding a Reportable Transaction rests with the settlement agent, the agency closing the transaction. FinCEN has created a Cascade of Reporting Persons may be responsible to report to FinCEN.

**►Are there any Exemptions to the Reporting Requirements of the RRER?**

Yes, there are limited exemptions for both transferee entities and transferee trusts, many of which involve parties who may already have financial reporting obligations to a federal agency or a court. Parties should check with your title and settlement agent to determine if any of the available exemptions apply to your transaction.

**►What are the Penalties for Not Complying with the RRER?**

There are substantial civil and criminal penalties for noncompliance with the RRER. That is why it is critical that all parties cooperate with the settlement agent’s requests for necessary data collection. Please be sure to alert your settlement agent if the terms of your transaction change after the initial order entry to subject your transaction to FinCEN reporting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Your Settlement Agent is your guide as you traverse the data collection process and will work closely with you to ensure your transaction is fully compliant with the RRER and proceeds to closing in a frictionless manner.

***[Insert Settlement Agent Branding and Contact Information Here]***