Date: August 5, 2024

Updated: March 2, 2025

Re: Corporate Transparency Act - Beneficial Ownership Information Reporting

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Update - March 2, 2025

The Treasury Department has suspended enforcement of FinCEN and will issue an “interim final rule” no later than March 21, 2025.

Update - December 23, 2024

The Fifth Circuit Court has granted FinCEN’s appeal to lift the injunction on BOI reporting. FinCEN has responded with extended reporting deadlines. According to the FinCEN’s website:

In light of a December 23, 2024, federal Court of Appeals decision, reporting companies, except as indicated below, are once again required to file beneficial ownership information with FinCEN. However, because the Department of the Treasury recognizes that reporting companies may need additional time to comply given the period when the preliminary injunction had been in effect, we have extended the reporting deadline as follows:

- *Reporting companies that were created or registered prior to January 1, 2024 have until January 13, 2025 to file their initial beneficial ownership information reports with FinCEN. (These companies would otherwise have been required to report by January 1, 2025.)*
- *Reporting companies created or registered in the United States on or after September 4, 2024 that had a filing deadline between December 3, 2024 and December 23, 2024 have until January 13, 2025 to file their initial beneficial ownership information reports with FinCEN.*
- *Reporting companies created or registered in the United States on or after December 3, 2024 and on or before December 23, 2024 have an additional 21 days from their original filing deadline to file their initial beneficial ownership information reports with FinCEN.*
- *Reporting companies that qualify for disaster relief may have extended deadlines that fall beyond January 13, 2025. These companies should abide by whichever deadline falls later.*

- *Reporting companies that are created or registered in the United States on or after January 1, 2025 have 30 days to file their initial beneficial ownership information reports with FinCEN after receiving actual or public notice that their creation or registration is effective.*

Given this current update, if you haven't made your BOI filing, please do so before the deadlines above. Instructions for filing are below.

Update - December 17, 2024

From the American Institute of Certified Public Accountants (AICPA), "The House released the draft continuing resolution on Wednesday, December 17 and it contains language the AICPA has fought to include for years: a 1-year delay to January 1, 2026, for BOI reports. The House is expected to vote as early as Thursday, December 18 and the Senate vote should follow shortly thereafter."

Update - December 3, 2024

Judge Amos L. Mazzant III of the U.S. District Court for the Eastern District of Texas ordered the nationwide preliminary injunction in response to a motion from plaintiffs in Texas Top Cop Shop v. Garland et al., with Mazzant finding the CTA was "likely unconstitutional as outside of Congress's power." The beneficial ownership information (BOI) reporting rule, adopted by FinCEN to implement the CTA, "is likely unconstitutional for the same reasons," Mazzant's order said.

In light of this injunction, the U.S. Financial Crimes Enforcement Network (FinCEN) encourages companies to voluntarily submit their beneficial ownership information as the Department of Justice appeals a nationwide injunction against the Corporate Transparency Act (CTA). The 5th Circuit Court of Appeals is moving quickly and may stay the injunction later this month, keeping the January 1, 2025, compliance deadline intact.

Notice Regarding Corporate Transparency Act Compliance

As of January 1, 2024, many businesses are mandated to comply with the Corporate Transparency Act (CTA), enacted under the National Defense Act for Fiscal Year 2021. The CTA necessitates the disclosure of beneficial ownership information (BOI) for certain entities by individuals who own or control a company. Approximately 32.6 million businesses are expected to meet this reporting requirement.

Purpose of the BOI Reporting Requirement

The BOI reporting aims to assist U.S. law enforcement in combating money laundering, terrorism financing, and other illicit activities. Notably, the CTA falls under the Bank Secrecy Act, not the tax code, and BOI reports are to be submitted to the Financial Crimes Enforcement Network (FinCEN), a Department of Treasury agency, rather than the IRS.

Preliminary Information for Implementation

This preliminary information is intended to help you prepare for the new reporting requirement. It is general in nature and should not be applied to your specific situation without consulting legal counsel or other professional advisors.

Entities Subject to the CTA's BOI Reporting Requirement

- Domestic Companies: Corporations, limited liability companies (LLCs), or similar entities created by filing documents with a state or tribal office
- Foreign Companies: Corporations, LLCs, or similar entities formed under foreign law and registered to do business in the U.S. by filing documents with a state or tribal office

Exemptions from Filing Requirements

There are 23 categories of exemptions, including:

- Publicly traded companies
- Banks and credit unions
- Securities brokers/dealers
- Public accounting firms
- Tax-exempt entities
- Certain inactive entities

These exemptions are not absolute, as many of these entities are already regulated and required to disclose BOI to a government authority. Additionally, "large operating entities" are exempt if all of the following criteria are met:

- Employ over 20 people in the U.S.
- Report over $5 million in gross revenue or sales on the prior year's tax return
- Are physically present in the U.S.

Definition of Beneficial Owner

A beneficial owner is any individual who, directly or indirectly:

- Exercises substantial control over a reporting company
- Owns or controls at least 25% of the ownership interests of a reporting company

Substantial control includes directing, determining, or exercising substantial influence over the company's important decisions, which encompasses senior officers regardless of their formal title or ownership interest.

Filing Deadlines

- New Entities (created/registered in 2024): Must file within 90 days
- New Entities (created/registered after December 31, 2024): Must file within 30 days
- Existing Entities (created/registered before January 1, 2024): Must file by January 1, 2025
- Entities with Changes or Inaccuracies: Must file within 30 days of the change or discovery of inaccuracies

Required Information

Companies must report:

- Full name of the reporting company
- Trade name or DBA name
- Business address
- State or Tribal jurisdiction of formation
- IRS taxpayer identification number (TIN)

Additionally, beneficial owners and, for newly created entities, company applicants must provide their name, birthdate, address, unique identifying number, and issuing jurisdiction from an acceptable identification document (e.g., driver's license or passport), along with an image of the document.

Risk of Non-Compliance

Willful non-compliance with the BOI reporting requirement can result in criminal and civil penalties, including fines of $500 per day, up to $10,000, and up to two years of imprisonment. For more information about the CTA, visit the Financial Crimes Enforcement Network.

WG's Policy

Our firm will not prepare Beneficial Ownership Information Reports for clients. For filing, we recommend the following options:

Option 1: For a guided experience, we recommend BOI eFile. The cost is $349 per filing *

Option 2: If you're comfortable filing on your own, there is a no-cost option available using the FinCEN's filing portal

Should you need professional assistance with this filing, we recommend contacting the attorney who assisted with your company's formation documents. We urge you to prepare and submit the BOI Report promptly for any eligible entity you manage or own.^

^ In light of the recent injunction by the U.S. District Court for the Eastern District of Texas, we recommend you consider the benefits of voluntarily filing your beneficial ownership information now, even during the injunction period. While **the decision ultimately rests with you**, taking proactive steps can help avoid last-minute compliance issues and reduce potential post-holiday chaos as the January deadline approaches.

** Securely handled by the " Elite Cybersecurity Gurus" over at Truss. This is an affiliate link.*