

The Corporate Transparency Act: Treasury's New Beneficial Ownership Information Reporting Regime

Reporting Effective: January 1, 2024

Companies should start preparing for compliance with a new rule that requires the reporting of certain beneficial ownership information (BOI) to the government.



Who reports?

- Reporting Companies are: corporations, LLCs, and entities that are created or registered to do business by filing a document with a secretary of state or any similar office
 - Includes both domestic and foreign entities
 - May include LPs, LLPs, GPs, depending on state requirements



Who is exempt?

- Rule defines 23 exemptions including, among others: banks, credit unions, money services businesses, broker-dealers, securities reporting issuers, Securities Exchange Act registered entities, investment companies or investment advisers, venture capital fund advisers, insurance companies, Commodity Exchange Act registered entities, pooled investment vehicles, tax exempt entities, large operating companies, certain subsidiaries, inactive entities



What gets reported?

- Reporting Company: full name, DBA, address, jurisdiction, TIN
- Beneficial Owners: full name, DOB, address, photo ID
- Company Applicants (new reporting companies only, 2 max): full name, DOB, address, photo ID



Who is a Beneficial Owner?

- An individual who, directly or indirectly, exercises **substantial control** over the Reporting Company
 - Includes senior officers (e.g., President, CEO, COO, CFO, GC)
 - Captures anyone who is able to make important decisions on behalf of the Reporting Company
- An individual who, directly or indirectly, **owns or controls at least 25% ownership interests** of the Reporting Company



Effective Date: January 1, 2024

- Existing Reporting Companies (as of 1/1/24) have until 1/1/25 to file an initial report
- New Reporting Companies (created or registered after 1/1/24): file an initial report within 30 days
- Updates and corrections to BOI: file a report within 30 days



Where do I report?

- To a non-public database maintained by the Financial Crimes Enforcement Network (FinCEN), a Treasury bureau
- The cloud-based system will meet the highest Federal Information Security Management Act level
- FinCEN proposes extensive protocols and safeguards for authorized users



Work we can do

- Assess your company's reporting obligations, eligibility for exemptions, and compliance requirements
- Assist foreign and domestic entities with issue-spotting
- Provide education and training for legal and compliance teams



Who gets access to BOI?¹

- Federal agencies engaged in law enforcement, national security, or intelligence activity, to be used in furtherance of such activity
- State, local, Tribal law enforcement for use in criminal or civil investigations and with authorization from a court of competent jurisdiction
- Certain foreign agencies engaged in law enforcement, national security, or intelligence activity
- Financial institutions subject to customer due diligence (CDD) requirements, to facilitate compliance with CDD, and their regulators
- Certain Treasury officers and employees, including for tax administration



What happens if I don't report? What if my BOI is misused?

- There are civil and criminal penalties for willful reporting violations
- There are also civil and criminal penalties for unauthorized disclosure and use of BOI



What is a FinCEN ID, and why would I want one?

- An individual may submit the required information (see "What gets reported," above) directly to FinCEN and receive a unique FinCEN identifier
- The individual may then provide their FinCEN identifier to a Reporting Company to be used in filing a report, instead of providing the Reporting Company with the required personal information

¹ Treasury published a proposed rule on access on December 15, 2022, and the Federal Register is accepting public comments through February 14, 2023. Expect FinCEN to issue a final access rule by January 1, 2024, the effective date for reporting BOI.

CONTACTS



AnnaLou Tirol | WASHINGTON, DC

Partner

alttirol@omm.com

+1 202 383 5342

- Former Deputy Director of FinCEN who led FinCEN's implementation of the AML Act of 2020
- One of the main architects of the Corporate Transparency Act's rules and requirements



Will Pao | LOS ANGELES

Partner

wpao@omm.com

+1 213 430 7272



Wenting Yu | SILICON VALLEY

Partner

wyu@omm.com

+1 650 473 2638



Scott Sugino | LOS ANGELES

Partner

ssugino@omm.com

+1 213 430 8019



Greta Lichtenbaum | WASHINGTON, DC

Partner

glichtenbaum@omm.com

+1 202 383 5249

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