

Beneficial Owner Information Reporting

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Agenda

- ▶ Background & Resources
- ▶ Defining BOI and the Requirement
- ▶ Reporting Companies and Exceptions
- ▶ Who is a Beneficial Owner?
- ▶ FinCen Identifier
- ▶ Miscellaneous Topics
- ▶ Updated Reports
- ▶ FinCEN Website Review

Background

▶ Corporate Transparency Act

- ▶ Enacted by Congress in 2021
- ▶ Requires many companies to report Beneficial Ownership Information to the US government
- ▶ Financial Crimes Enforcement Network (FinCEN)
 - ▶ Bureau within the Department of Treasury
- ▶ Intent is to “stop the flow of illicit funds that hurt law-abiding small businesses, as well as protecting our economic and national security from bad actors”
- ▶ Civil Penalties for non-compliance: Up to \$591 per day
- ▶ Criminal Penalties for non-compliance: up to \$10,000 and two-years imprisonment

Resources

- ❑ FinCEN website: <https://fincen.gov/boi>
- ❑ Frequently Asked Questions: <https://fincen.gov/boi-faqs>
- ❑ BOI Small Entity Compliance Guide: <https://fincen.gov/boi/small-entity-compliance-guide>
- ❑ FinCEN YouTube informational video: [FinCEN Info Session on Beneficial Ownership Reporting - YouTube](#)



What is Beneficial Ownership Information?

Identifying information about the individuals who directly or indirectly own or control a company.

Information about company:

- ❑ Legal Name & D/B/A names
- ❑ Street Address of Principal Place of Business in US
- ❑ Jurisdiction of Formation
- ❑ Taxpayer Identification Number

Information about owners:

- ❑ The individual's name;
- ❑ Date of birth;
- ❑ Residential address; and
- ❑ An identifying number from an acceptable identification document such as a passport or U.S. driver's license

Understanding the Requirement

FinCEN launched the BOI E-Filing website for reporting beneficial ownership information (<https://boiefiling.fincen.gov>) on January 1, 2024.

Deadlines:

- A **reporting company** created or registered to do business before January 1, 2024, will have until January 1, 2025, to file its initial BOI report.
- A **reporting company** created or registered in 2024 will have 90 calendar days to file after receiving actual or public notice that its creation or registration is effective.
- A **reporting company** created or registered on or after January 1, 2025, will have 30 calendar days to file after receiving actual or public notice that its creation or registration is effective.

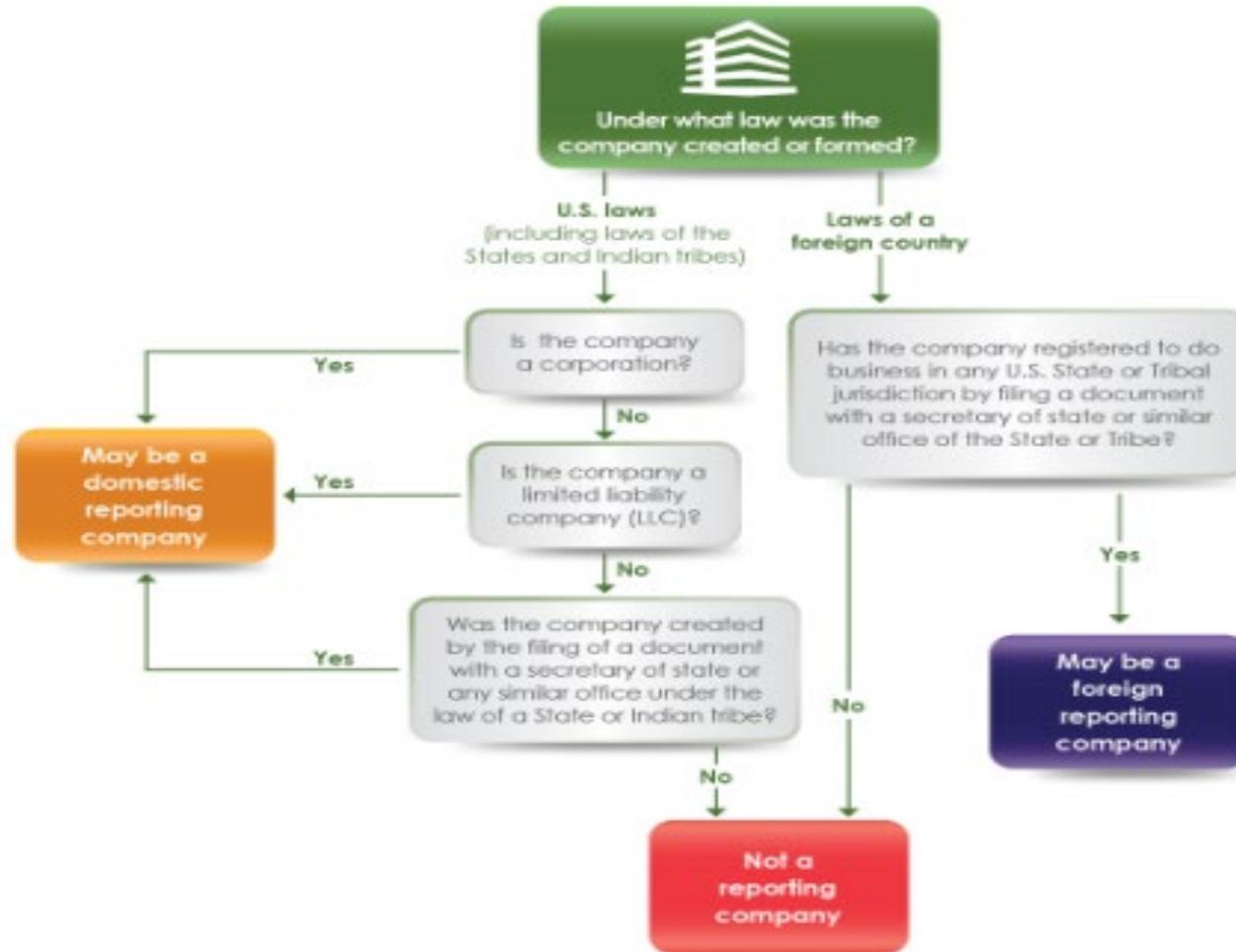
Understanding the Requirement

- ❑ No filing fee
- ❑ Not an annual report
- ❑ Updated Report required to be submitted within 30 days of change in information
- ❑ Anyone authorized by the **reporting company** to act on its behalf may file the report
- ❑ No requirement to use an attorney, CPA, or any other professional
- ❑ Reporting companies created or registered *on or after* January 1, 2024, will need to report their “company applicants”.
- ❑ Company applicants will have only up to two individuals who could qualify as company applicants:
 1. The individual who directly files the document that creates or registers the company; and
 2. If more than one person is involved in the filing, the individual who is primarily responsible for directing or controlling the filing.

What is a Reporting Company?

- ❑ **Domestic reporting companies** are corporations, limited liability companies, and any other entities created by the filing of a document with a secretary of state or any similar office in the United States.
- ❑ **Foreign reporting companies** are entities (including corporations and limited liability companies) formed under the law of a foreign country that have registered to do business in the United States by the filing of a document with a secretary of state or any similar office.
- ❑ Sole proprietorship is not a reporting company unless it was created by filing a document with a secretary of state or similar office. Does not include filing a document with a government agency to obtain:
 - (1) an IRS employer identification number,
 - (2) a fictitious business name, or
 - (3) a professional or occupational license

What is a Reporting Company?



Exceptions - 23 Types of Entities

Exemption No.	Exemption Short Title
1	Securities reporting issuer
2	Governmental authority
3	Bank
4	Credit union
5	Depository institution holding company
6	Money services business
7	Broker or dealer in securities
8	Securities exchange or clearing agency
9	Other Exchange Act registered entity
10	Investment company or investment adviser
11	Venture capital fund adviser
12	Insurance company

Exemption No.	Exemption Short Title
13	State-licensed insurance producer
14	Commodity Exchange Act registered entity
15	Accounting firm
16	Public utility
17	Financial market utility
18	Pooled investment vehicle
19	Tax-exempt entity
20	Entity assisting a tax-exempt entity
21	Large operating company
22	Subsidiary of certain exempt entities
23	Inactive entity

Criteria for Tax-Exempt Entity Exemption

An entity qualifies for the tax-exempt entity exemption if any of the following four criteria apply:

1. The entity is an organization that is described in section 501(c) of the [Internal Revenue Code of 1986](#) (Code) (determined without regard to section 508(a) of the [Code](#)) and exempt from tax under section 501(a) of the [Code](#).
2. The entity is an organization that is described in section 501(c) of the [Code](#), and was exempt from tax under section 501(a) of the [Code](#), but lost its tax-exempt status less than 180 days ago.
3. The entity is a political organization, as defined in section 527(e)(1) of the [Code](#), that is exempt from tax under section 527(a) of the [Code](#).
4. The entity is a trust described in paragraph (1) or (2) of section 4947(a) of the [Code](#).

- ❑ Entity Owned by Tax-Exempt Organization (i.e.; and ESOP) does not fall under this exemption

Criteria for Inactive Entity Exemption

An entity qualifies if all six of the following criteria are met:

- ❑ In existence on or before January 1, 2020.
- ❑ Not engaged in active business.
- ❑ Not owned by a foreign person, whether directly or indirectly, wholly or partially.
- ❑ Has not experienced any change in ownership in the preceding twelve-month period.
- ❑ Has not sent or received any funds in an amount greater than \$1,000, either directly or through any financial account in the preceding twelve-month period.
- ❑ Entity does not otherwise hold any kind or type of assets, whether in the United States or abroad, including any ownership interest in any corporation, limited liability company, or other similar entity.

Questions Surrounding Closed Companies

Is a company required to report its beneficial ownership information to FinCEN if the company ceased to exist before reporting requirements went into effect on January 1, 2024?

- ▶ A company is not required to report its beneficial ownership information to FinCEN if it ceased to exist as a legal entity before January 1, 2024, (i.e.; it entirely completed the process of formally and irrevocably dissolving)
- ▶ If a reporting company continued to exist as a legal entity on or after January 1, 2024 (i.e., did not entirely complete the process of formally and irrevocably dissolving before January 1, 2024), then it is required to report its beneficial ownership information to FinCEN, even if the company had wound up its affairs and ceased conducting business before January 1, 2024.
- ▶ Similarly, if a reporting company was created or registered on or after January 1, 2024, and subsequently ceased to exist, then it is required to report its beneficial ownership information to FinCEN—even if it ceased to exist before its initial beneficial ownership information report was due.
- ▶ A company that is administratively dissolved or suspended—because, for example, it failed to pay a filing fee or comply with certain jurisdictional requirements—generally does not cease to exist as a legal entity unless the dissolution or suspension becomes permanent.

Criteria for Large Operating Company Exemption

An entity qualifies if all 6 of the following criteria apply:

- ❑ The entity employs more than 20 full-time employees (i.e.; more than 30 hours per week)
 - ❑ No aggregation!
- ❑ More than 20 full-time employees employed in the United States
- ❑ Entity has an operating presence at a physical office in the US that they own or lease that is physically distinct from the place of business of an unaffiliated company
- ❑ Entity reported greater than \$5 million of gross receipts on their federal tax return
- ❑ Entity must have filed prior year tax reflecting income level
- ❑ When excluding foreign sales, entity's revenue still greater than \$ 5 million

Criteria for Large Operating Company Exemption

- ❑ No combining employees across related entities to reach 20
- ❑ If company doesn't initially meet Large Operating Company Exemption but later grows to that level a "Newly Exempt Entity" BOI report should be filed
- ❑ A parent holding company may not file a single report on behalf of all subsidiaries
- ❑ A parent holding company will not qualify for the exemption based on the employees of an operating subsidiary

Subsidiary of Certain Exempt Entity Exemption

- ❑ A subsidiary wholly owned by an exempt parent entity, on the other hand, will qualify for the exemption
- ❑ A subsidiary only partially owned by an exempt entity must qualify on its own

Who is a Beneficial Owner?

- ❑ A **beneficial owner** is an individual who either directly or indirectly:
 - (1) exercises substantial control over the reporting company, or
 - (2) owns or controls at least 25% of the reporting company's ownership interests.
- ❑ Because beneficial owners must be individuals (i.e., natural persons), trusts, corporations, or other legal entities are not considered to be beneficial owners.
- ❑ In specific circumstances, information about an entity may be reported in lieu of information about a beneficial owner
- ❑ FinCEN expects that every reporting company will be able to identify and report at least one beneficial owner to FinCEN.

What is Substantial Control?

If the individual falls into *any* of the categories below, the individual is exercising substantial control:

- ❑ The individual is a **senior officer** (the company's president, chief financial officer, general counsel, chief executive officer, chief operating officer, or any other officer who performs a similar function).
- ❑ The individual has **authority to appoint or remove** certain officers or a majority of directors (or similar body) of the reporting company.
- ❑ The individual is an **important decision-maker** for the reporting company.
- ❑ The individual has **any other form of substantial control** over the reporting company as explained further in FinCEN's [Small Entity Compliance Guide](#) (see Chapter 2.1, "What is substantial control?").

Who is an Important Decision Maker?



IMPORTANT DECISION-MAKER

any individual who directs, determines, or has substantial influence over important decisions made by the reporting company, including decisions regarding the reporting company's:

1. **Business**, such as:
 - Nature, scope, and attributes of the business
 - The selection or termination of business lines or ventures, or geographic focus
 - The entry into or termination, or the fulfillment or non-fulfillment, of significant contracts
2. **Finances**, such as:
 - Sale, lease, mortgage, or other transfer of any principal assets
 - Major expenditures or investments, issuances of any equity, incurrence of any significant debt, or approval of the operating budget
 - Compensation schemes and incentive programs for senior officers
3. **Structure**, such as:
 - Reorganization, dissolution, or merger
 - Amendments of any substantial governance documents of the reporting company, including the articles of incorporation or similar formation documents, bylaws, and significant policies or procedures

What is an Ownership Interest?

An ownership interest is generally an arrangement that establishes ownership rights in the reporting company.



EQUITY, STOCK, OR VOTING RIGHTS

any interest classified as stock or anything similar, regardless whether it confers voting power or voting rights, and even if the interest is transferable

EXAMPLES include:

- equity, stock, or similar instrument
- preorganization certificate or subscription
- transferable share of, or voting trust certificate or certificate of deposit for, an equity security, interest in a joint venture, or certificate of interest in a business trust



CAPITAL OR PROFIT INTEREST

any interest in the assets or profits of a company organized as an LLC, which is similar to stock in a corporation and sometimes referred to as a 'unit'



CONVERTIBLE INSTRUMENTS

any instrument convertible into **equity, stock, or voting rights** or **capital or profit interest**, whether or not anything needs to be paid to exercise the conversion. The **RELATED** items are also ownership interests:

- any future on any convertible instrument
- any warrant or right to purchase, sell, or subscribe to a share or interest in **equity, stock, or voting rights** or **capital or profit interest**, even if such warrant or right is a debt



OPTION OR PRIVILEGE

any put, call, straddle, or other option or privilege of buying or selling **equity, stock, or voting rights, capital or profit interest, or convertible instruments**, EXCEPT if the option or privilege is created and held by others without the knowledge or involvement of the reporting company

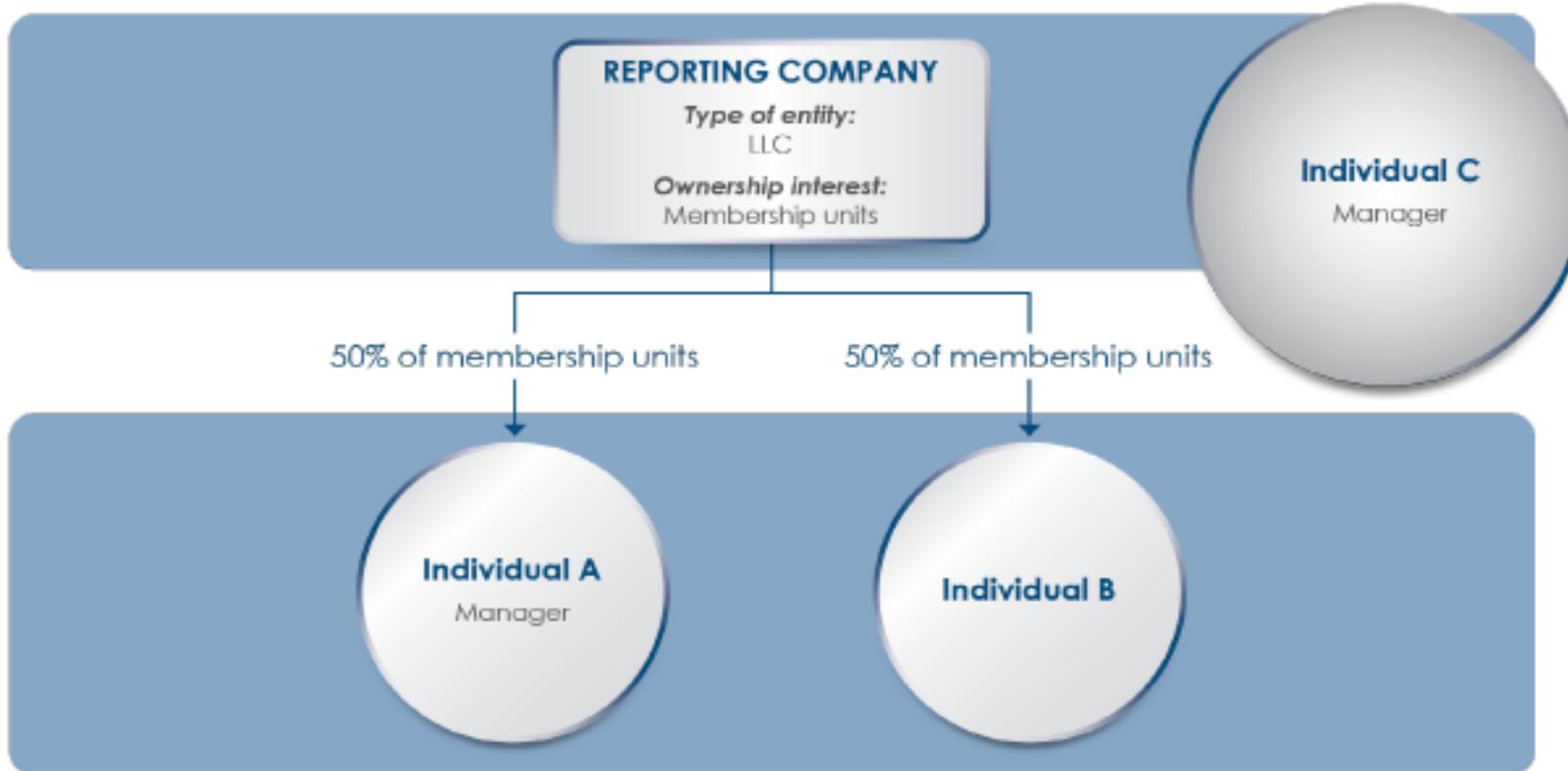
Who is a Beneficial Owner? - Example

Example 2: The reporting company is a corporation. The company's total outstanding ownership interests are shares of stock. Three people (Individuals A, B, and C) own 50 percent, 40 percent, and 10 percent of the stock, respectively, and one other person (Individual D) acts as the president, for the company, but does not own any stock.



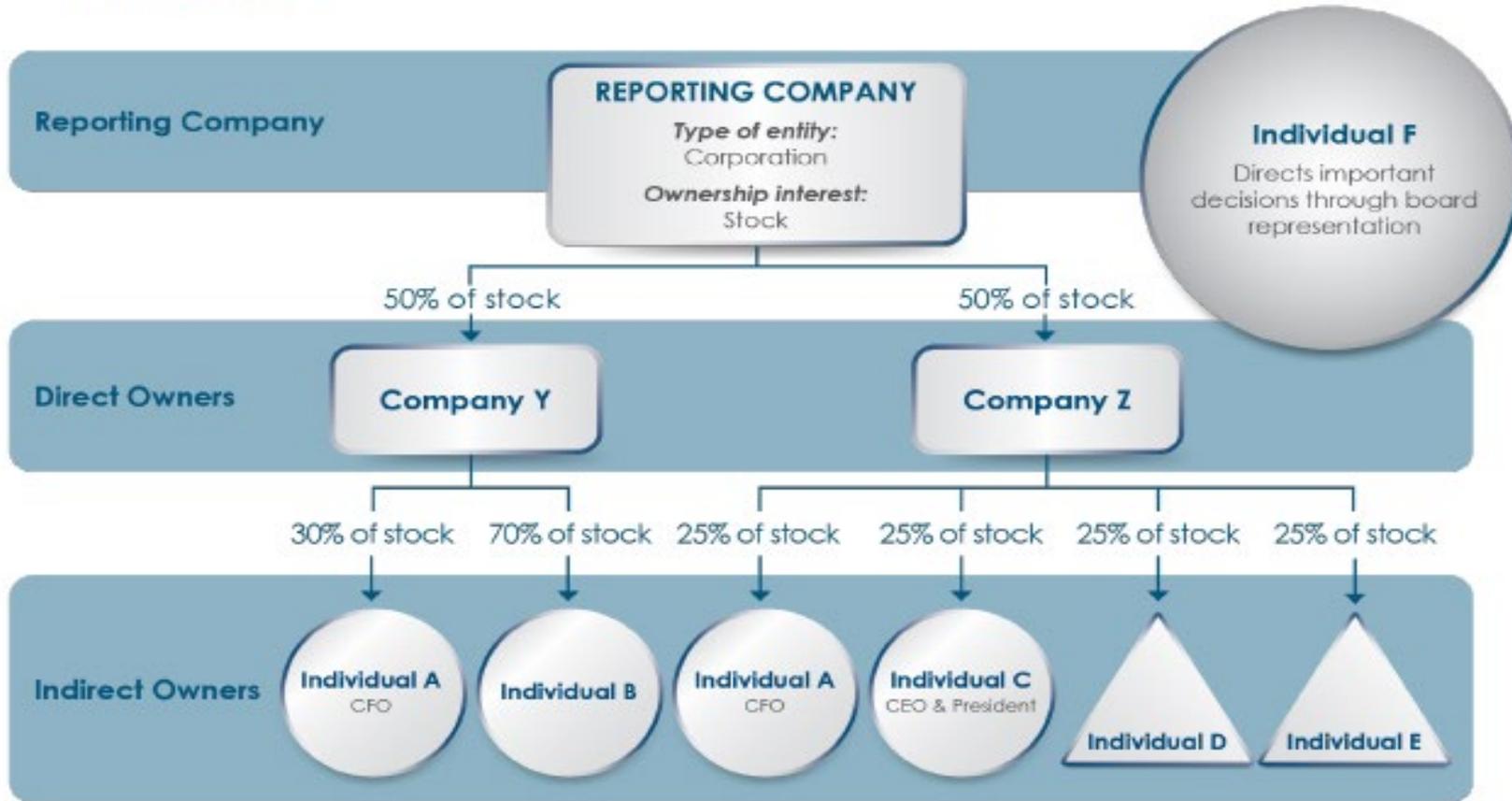
Who is a Beneficial Owner? - Example

Example 3: The reporting company is an LLC with two managers, Individuals A and C. Individual A also owns 50 percent of the "membership units" in the LLC while Individual C does not. Individual B owns the remaining membership units in the LLC but is not a manager.



Who is a Beneficial Owner? - Example

Example 4: A reporting company is a corporation with multiple indirect owners through Company Y and Company Z.



Who would qualify for beneficial owner exemption?

- Minor child
- Nominee, intermediary, custodian, agent
- Inheritor
- Creditor
- Employee
 - Must meet definition of employee under 25 CFR 54.4980H-1(a)(15)
 - Substantial control/economic benefits derived solely from the employment status of the individual as an employee
 - Individual is not a senior officer

Special Reporting for Corporate Owned Reporting Company

General Rule: a reporting company reports the individuals who indirectly either (1) exercise substantial control over the reporting company or (2) own or control at least 25 percent of the ownership interests in the reporting company through the corporate entity.

Two special rules create exceptions to this general rule in very specific circumstances:

- ❑ A reporting company may report the name(s) of an exempt entity or entities in lieu of an individual beneficial owner who owns or controls ownership interests in the reporting company entirely through ownership interests in the exempt entity or entities; or
- ❑ If the beneficial owners of the reporting company and the intermediate company are the same individuals, a reporting company may report the FinCEN identifier and full legal name of an intermediate company through which an individual is a beneficial owner of the reporting company.

What is a FinCEN Identifier?

- ❑ A unique identifying number that FinCEN will issue to an individual or reporting company upon request after the individual or reporting company provides certain information to FinCEN. An individual or reporting company may only receive one FinCEN identifier.
- ❑ When a beneficial owner or company applicant has obtained a FinCEN identifier, reporting companies may report the FinCEN identifier of that individual in the place of that individual's otherwise required personal information on a beneficial ownership information report.
- ❑ A reporting company may report another entity's FinCEN identifier and full legal name in place of information about its beneficial owners when three conditions are met:
 - (1) the other entity obtains a FinCEN identifier and provides it to the reporting company;
 - (2) the beneficial owners hold interests in the reporting company through ownership interests in the other entity; and
 - (3) the beneficial owners of the reporting company and the other entity are the exact same individuals.
- ❑ Request a FinCEN identifier by completing an electronic web form at <https://fincenid.fincen.gov>.

Questions Surrounding Trusts

- ❑ State laws vary on whether certain entity types, such as trusts, require the filing of a document with the secretary of state or similar office to be created or registered.
 - If a trust is created in a U.S. jurisdiction that requires such filing, then it is a reporting company, unless an exemption applies.
- ❑ Beneficial owners can own or control a reporting company through trusts by either exercising substantial control over a reporting company through a trust arrangement or by owning or controlling the ownership interests of a reporting company that are held in a trust
- ❑ The following conditions indicate that an individual owns or controls ownership interests in a reporting company through a trust:
 - A trustee (or any other individual) has the authority to dispose of trust assets;
 - A beneficiary is the sole permissible recipient of income and principal from the trust, or has the right to demand a distribution of or withdraw substantially all of the assets from the trust; or
 - A grantor or settlor has the right to revoke the trust or otherwise withdraw the assets of the trust

Update Reports

- ❑ If there is **any change** to the required information about a company or its beneficial owners in a beneficial ownership information report that your company filed, the company must file an updated report no later than 30 days after the date of the change.
- ❑ **Examples of the changes that would require an updated report:**
 - Any change to the information reported for the reporting company, such as registering a new business name.
 - A change in beneficial owners, such as a new CEO, or a sale that changes who meets the ownership interest threshold of 25 percent
 - Any change to a beneficial owner's name, address, or unique identifying number previously provided to FinCEN. If a beneficial owner obtained a new driver's license or other identifying document that includes a changed name, address, or identifying number, the reporting company also would have to file an updated beneficial ownership information report with FinCEN, including an image of the new identifying document.
- ❑ **Examples of the changes that would not require an updated report:**
 - A change to the type of ownership interest a beneficial owner has in a reporting company—for example, a conversion of preferred shares to common stock
 - Change to Company Applicant

BOI Website

Small Business Resources

Reference Materials

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BOI | BENEFICIAL OWNERSHIP INFORMATION

Many companies are required to report information to FinCEN about the individuals who ultimately own or control them. FinCEN began accepting reports on January 1, 2024. [Learn more about reporting deadlines.](#)

Prepare

- How do I file?
- Do I qualify for an exemption?
- How do I get a FinCEN ID?

File

- File a report using the BOI E-Filing System
- Create a FinCEN ID (optional)



Alert: FinCEN has learned of fraudulent attempts to solicit information from individuals and entities who may be subject to reporting requirements under the Corporate Transparency Act.

BOI Website

Welcome to the BOI E-Filing System

The BOI E-Filing System supports the electronic filing of the Beneficial Ownership Information Report (BOIR) under the Corporate Transparency Act (CTA). The CTA requires certain types of U.S. and foreign entities to report beneficial ownership information to the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury.



File BOIR

Need to file a BOIR?
Click here!



Help

Looking for more
information? Click here



Beneficial Ownership Information (BOI) Reporting

Need to file a BOIR? Click here!

[GET STARTED](#)



Bank Secrecy Act (BSA) Reporting

Need to file another type of
BSA report? Click here!

[BSA E-FILING](#)

News & Announcements

Jan 04 2024

Need assistance? Go to the Help section in the blue banner to find filing instructions and other guidance materials.

BOI Website

File the Beneficial Ownership Information Report (BOIR)

Select the filing method that works best for you:

	<h3>File PDF BOIR</h3> <ul style="list-style-type: none">◦ Adobe Reader is required◦ Prepare report offline at your own pace, save as you go◦ Reuse PDF BOIR when filing updates/corrections◦ Download BOIR transcript upon submission <p>Prepare BOIR Submit BOIR</p>
	<h3>File Online BOIR</h3> <ul style="list-style-type: none">◦ Adobe Reader NOT required◦ Prepare report online and submit now◦ Prepare new Online BOIR when filing updates/corrections◦ Download BOIR transcript upon submission <p>Prepare & Submit BOIR</p>

BOI Website

Beneficial Ownership Information Report

Home

Reporting Company

Company Applicant(s)

Beneficial Owner(s)



Beneficial Ownership Information Report

OMB No. 1506-0076

Version Number: 1.0

Release Date: 05-29-2024

Report Preparation & Submission Instructions:

Instructions

1. Complete the report in its entirety with all required information. Click **Instructions** for help.

Validate

2. Click **Validate** to ensure all entered data is properly formatted and that all required fields are completed.

Finalize

3. Click **Finalize** to lock the entries in the report and prepare it for submission. Click **Edit Report** to unlock and re-edit.

Save

4. Click **Save** to retain a local copy of the report (this can be done at any time during report preparation).

Print

5. (Optional) Click **Print** to print a hard copy of your completed report.

Ready To File

6. Select **Ready to File** (activated after the report is finalized and saved locally) to begin the submission process.

Filing Information

BOI Website

Beneficial Ownership Information Report (BOIR)

OMB No. 1506-0076

Complete the report in its entirety with all required information. Fields marked with an asterisk (*) symbol are the fields that, *at a minimum*, must be completed by all companies to file the report. Reporting companies, however, must include all information 31 CFR 1010.380(b) requires them to provide, regardless of whether a field is marked with an asterisk (*) symbol. These information requirements are summarized above under HELP.

- Filing Information
- Reporting Company
- Company Applicant(s)
- Beneficial Owner(s)
- Submit

Filing Information

Need help?



*1. Type of filing:

- a. Initial report
- b. Correct prior report
- c. Update prior report
- d. Newly exempt entity

Thank you



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“Beneficial Ownership Information (BOI) Filing”
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