

US Treasury Begins to Collect Information on Beneficial Owners:

FinCEN and the Corporate Transparency Act

Effective January 1, 2024, the reporting rules of the Corporate Transparency Act took effect and business entities covered by the law must begin filing reports with FinCEN regarding an entity's beneficial owners.

For attorneys and others involved in the creation of, and provision of ongoing guidance to, these covered entities (called "reporting companies"), knowledge of the regulations will be instrumental in assisting clients as they deal with the new rules. In particular, it is anticipated that small companies will have challenges with compliance, making informed assistance invaluable.

The information in this Bulletin is a short summary of the rules; readers are encouraged to get more information from the FinCEN website (see below).

What is the Corporate Transparency Act? A federal law passed in 2020 which mandates that the federal government, through the Department of Treasury's Financial Crimes Enforcement Network (FinCEN), collect information that identifies the beneficial owners of certain business entities. The purpose of the Act and its regulations is to "prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity."

What entities are covered by the Rules? For the most part, any entity (a corporation, LLC, or similar entity) that is "created" by the filing of a document with the secretary of state or similar office is a "reporting company," unless it meets one of the 23 enumerated exceptions. Those exempt entities are deemed to be sufficiently overseen by existing federal or state regulations and/or are already required to report beneficial ownership to the government. (See the chart at the Small Entity Compliance Guide and the FAQs, and the hyperlinks for both later in this Bulletin, for more information.)

When must the report be filed? What about updates? For a company in existence prior to January 1, 2024, the initial filing must be done by January 1, 2025. For a company created after January 1, 2024, the filing must be done within 90 calendar days of the effective date of the creation/registration. For a company created after January 1, 2025 or for any updates to the required information, the filing must be done within 30 days of the creation or update.

Who does the filing? The filing is generally done by the person (individual) who directly filed the document that created the company. For companies created after January 1, 2024 that individual must be identified (the company applicant); for those created prior to that date the individual does not need to be identified.

Where is the report filed? The filing can only be done electronically through a secure website maintained by FinCEN. The website has reference guides and step-by-step filing instructions to aid filers. There is no filing fee; the information collected can be shared only with a limited group, generally for law enforcement purposes.

What information needs to be filed? The Small Entity Compliance Guide has a checklist and examples of the required information.

In summary, the company must report the following information about all beneficial owners (defined as 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):

1. The individual's name;
2. Date of birth;
3. Residential address; and
4. An identifying number from an acceptable identification document such as a passport or U.S. driver's license, and the name of the issuing state or jurisdiction of the identification document. The reporting company will also have to report an image of the identification document used to obtain the identifying number in item 4.

Are there consequences for non-compliance? Yes.

There are both civil and criminal penalties for non-compliance with beneficial ownership information reporting obligations. Willfully failing to file a beneficial ownership information report, willfully filing false beneficial ownership information, or willfully failing to correct or update previously reported beneficial ownership information can lead to civil penalties up to \$500/day and/or criminal penalties up to two years imprisonment and fines up to \$10,000. Those potentially liable include the individual who files the report, the information provider and anyone who refuses to provide required information, as well as the corporate entity.

The FinCEN website (fincen.gov/boi) has many resources including [FAQ's](#), a [Small Entity Compliance Guide](#), and [complete filing instructions](#) as a pdf.

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To provide you with more information on this important subject, CATIC is presenting a webinar through CATIC Academy on March 7th at 10am. The author of this Bulletin will be the featured speaker, and Raymond Baghdady, a Vice President and Regional Counsel at CATIC, will be the moderator. Look for the upcoming CATIC Academy announcement for further details. In the meantime, if you have any questions regarding this Bulletin, please contact your local CATIC or CATIC Title office.