

ALERT FOR BUSINESSES AND THEIR OWNERS: Federal Reporting Requirements Effective January 1, 2024

Alert drafted by Adam D. Page, Esq. and Sydney R. Powers, Esq.

I. CORPORATE TRANSPARENCY ACT

From and after January 1, 2024, pursuant to the Corporate Transparency Act (“CTA”), many businesses will be subject to reporting certain information to the Financial Crimes Enforcement Network (“FinCEN”), a bureau of the U.S. Department of the Treasury.

II. WHO IS SUBJECT TO THE CTA/MUST FILE REPORTS?

A. SCOPE. The CTA applies to all (i) domestic entities which are created by filing a document with a secretary of state/equivalent office, and (ii) foreign entities which are registered to do business in the U.S. by the filing of a document with a secretary of state/equivalent office (a “Reporting Company” or “Reporting Companies”). Generally speaking, these include corporations, limited liability companies, limited liability partnerships, limited partnerships, and business trusts. All Reporting Companies must submit a BOI Report (described below) unless they are exempt.

B. EXEMPTIONS. FinCEN’s reporting rule which supplements the CTA (the “Reporting Rule”) exempts 23 types of entities from the reporting requirements, a summary listing of which is attached hereto as Exhibit A. See the FinCEN Small Entity Compliance Guide (link below) for a further description and criteria of all exemptions.

III. WHAT MUST BE REPORTED?

Reporting Companies must file a beneficial ownership information report identifying (A) itself, (B) information about each of its beneficial owners, and (C) information about its company applicants (“BOI Report” or “BOI Reports”).

A. ITSELF. Reporting Companies must report general company-level information, including its (i) legal name, (ii) trade/DBA names, (iii) jurisdiction of formation, (iv) principal place of business in the U.S., and (v) taxpayer identification number.

B. BENEFICIAL OWNERS. Beneficial owners are individuals who (i) directly or indirectly exercise substantial control over the Reporting Company (for example, senior officers and important decision-makers), or (ii) own or control at least 25% of the ownership interest in the Reporting Company (for example, by way of equity, voting rights, and options). Depending on the circumstances, certain exceptions may apply, such as for minor children.

C. COMPANY APPLICANTS. A company applicant is an individual who (i) directly filed the document that created or registered the Reporting Company, and/or (if more than one person was involved), (ii) was primarily responsible for directing or controlling such filing. Each Reporting Company may have up to two company applicants to report. If the Reporting Company was created or first registered to do business prior to January 1, 2024, it is not required to report company applicant information.

D. BENEFICIAL OWNER/COMPANY APPLICANT INFORMATION. Reporting Companies must report information for its beneficial owner(s) and (as applicable) company applicant(s), including (i) legal name, (ii) date of birth, (iii) residential address (for beneficial owners) or business address (for company applicants), and (iv) identifying number, jurisdiction of issuance, and image of a U.S. passport, driver's license, or government-issued identification document (or if one does not have any of the foregoing, a foreign passport). Beneficial owners and company applicants may obtain a FinCEN Identifier for Reporting Companies to provide in its BOI Report in place of the foregoing information.

IV. WHEN/HOW MUST BOI REPORTS BE FILED?

Entities created or registered prior to January 1, 2024 have until January 1, 2025 to submit their initial BOI Report to FinCEN. Entities created or registered on or between January 1, 2024 and December 31, 2024 must file their initial BOI Report with FinCEN within 90 calendar days of receiving notice that the entity has been formed or registered. Entities created or registered on and after January 1, 2025 must file their initial BOI Report with FinCEN within 30 calendar days of receiving such notice.

On an ongoing basis, Reporting Companies are required to revise or update the BOI Report if there are errors or changes to information previously furnished, within 30 calendar days of the change or when it knew of the error. Depending on the circumstances, failure to submit, revise, or update the BOI Report can result in civil and/or criminal penalties. For those who have obtained FinCEN Identifiers, there is a like obligation to revise or update information previously furnished.

BOI Reports (including revisions and updates) are to be filed electronically using FinCEN's secure e-filing portal. FinCEN is not able to accept BOI Reports before January 1, 2024.

V. WHERE CAN I FIND MORE INFORMATION?

FinCEN's Beneficial Ownership Information webpage serves as a general resource, and includes information on how to file, FAQs, and contact information for FinCEN. The link is below:

[Beneficial Ownership Information Reporting | FinCEN.gov](#)

Further, FinCEN has published a Small Entity Compliance Guide, to help businesses comply with the Reporting Rule. The Guide includes details on each of the 23 exemptions, who are considered beneficial owners and company applicants, information to report, how to report, and updating inaccurate or changed information. The latest version of the Guide can be accessed here:

[BOI Small Compliance Guide v1.1 \(fincen.gov\)](#)

Should you have questions or would like any assistance, please reach out to Adam D. Page, Esq. at apage@connkavanaugh.com or Sydney R. Powers, Esq. at spowers@connkavanaugh.com, of Conn Kavanaugh Rosenthal Peisch & Ford, LLP's Corporate/Transactional Department.

The above information is only meant to serve as a high-level overview, is general in nature, and does not constitute legal advice. FinCEN continues to develop its framework and may continue to issue additional updates and guidance.

EXHIBIT A

Summarized List of Exemptions

1. Securities reporting issuers
2. Governmental authorities
3. Banks
4. Credit unions
5. Depository institution holding companies
6. Money services businesses
7. Brokers or dealers in securities
8. Securities exchange or clearing agencies
9. Other Exchange Act registered entities
10. Investment companies or investment advisers
11. Venture capital fund advisers
12. Insurance companies
13. State-licensed insurance producers
14. Commodity Exchange Act registered entities
15. Accounting firms
16. Public utilities
17. Financial market utilities
18. Pooled investment vehicles
19. Tax-exempt entities
20. Entity assisting a tax-exempt entity
21. Large operating companies (A. More than 20 FT employees employed in the U.S.; B. Physical office it conducts business at in the U.S.; and C. U.S. tax return for the previous year showing \$5million+ in gross receipts or sales).
22. Subsidiary of certain exempt entities
23. Inactive entities