



## ALERTS

### FinCEN Extends Deadline For Beneficial Owner Reporting

October 11, 2023

#### Highlights

The beneficial owner information reporting rules go into effect Jan. 1, 2024, requiring certain non-financial institutions to file with Financial Crimes Enforcement Network (FinCEN)

FinCEN has extended the initial deadline to Jan. 1, 2025, for companies registered pre-2024 to comply with new ownership reporting requirements

FinCEN has also extended the deadline from 30 days to 90 days for companies registered post-2025 to file required reports

The Financial Crimes Enforcement Network (FinCEN) issued a [Notice of Proposed Rulemaking](#) to extend the reporting deadlines for certain U.S. companies to file their initial beneficial ownership information (BOI) reports under the 2024 BOI rule.

As many non-financial U.S. businesses prepare to comply with new ownership, officer, and corporate reporting requirements, the extension comes as a welcome modification to the new rule's implementation.

Under the final [BOI reporting rule](#), certain entities must file reports with

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FinCEN that identify two categories of individuals: (1) the beneficial owners of the entity, and (2) individuals who have filed an application with specified governmental authorities to create the entity or register it to do business.

## New Reporting Deadlines

FinCEN is proposing to amend its new rule to provide 90 days for reporting companies created or registered in 2024 to file their initial reports, instead of 30 days. The proposed rule would not make any other changes to the final BOI reporting rule.

The new reporting deadlines for BOI information require reporting companies created or registered before Jan. 1, 2024, to file their initial BOI reports with FinCEN by Jan. 1, 2025; entities created or registered on or after Jan. 1, 2025, would have 30 days to file their initial BOI reports.

## Corporate Transparency

The new rule implements Section 6403 of the Corporate Transparency Act (CTA) and a new section ([31 U.S.C. 5336](#)) of the Bank Secrecy Act (BSA) in an effort to enhance U.S. beneficial ownership transparency. In certain circumstances, FinCEN is authorized to share information contained in the BOI reports with government agencies, financial institutions, and financial regulators.

## Reporting Companies

The new rule requires two groups of entities, called “reporting companies,” to report their data to FinCEN: (1) domestic 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, and (2) foreign 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.

There are 23 types of entities that are exempt from the reporting requirements. Most of these entity exemptions apply to institutions, entities, and operators otherwise registered and regulated by U.S. bodies of oversight, e.g. publicly traded companies meeting specified requirements, many nonprofits, and certain large operating companies.

## Reporting Ownership

Under the new rule, reporting companies must file BOI reports with FinCEN containing identifying and registration data about the reporting company, as well as information about two categories of individuals: (1) the beneficial owners of the reporting company; and (2) the company applicants, who are the individuals who filed a document to create the reporting company or register it to do business.

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 percent of the reporting company’s ownership

interests.

“Substantial control,” as defined by the rule, includes: senior officers (the company’s president, chief financial officer, general counsel, chief executive officer, chief operating officer, or any other officer who performs a similar function); individuals having authority to appoint or remove certain officers or a majority of directors (or similar body) of the reporting company; individuals acting as important decision-makers for the reporting company; and individuals have any other form of substantial control over the reporting company.

An “ownership interest” is generally an arrangement that establishes ownership rights in the reporting company, e.g. shares of equity, stock, voting rights, or any other mechanism used to establish ownership.

## Corporate Ownership Data

In the [agency’s press release](#), FinCEN Director Andrea Gacki commented that, “FinCEN remains committed to developing a beneficial ownership database that is highly useful to law enforcement and national security agencies.” To that end, FinCEN has developed the Beneficial Ownership Secure System to receive, store, and maintain BOI. The system is designed to take in beneficial ownership data electronically through an online interface.

## Takeaways

U.S. entities should prepare to comply with new rules effective Jan. 1, 2024. Compliance with beneficial owner and company applicant reporting requirements may require many U.S. businesses to address, clarify, and codify their ownership information.

Additional information on the BOI Rule and reporting requirements can be found on the [FinCEN website](#).

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work, or Scott Hulsey at 202-831-6736 or [scott.hulsey@btlaw.com](mailto:scott.hulsey@btlaw.com) or Katie Mills at 310-284-3820 or [katie.mills@btlaw.com](mailto:katie.mills@btlaw.com).

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