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CORPORATE TRANSPARENCY ACT

Introduction

In an effort to combat money laundering, terrorism financing, and other illicit activities, Congress passed the Corporate Transparency Act (CTA) in 2021. Beginning in 2024, the CTA requires most small and medium sized entities to electronically file a report disclosing entity structure and ownership information of the respective entity.

On February 18, 2025, FinCEN announced its intention to reinstate the reporting requirements under the CTA. Generally, reporting companies have until March 21, 2025, to file their initial beneficial ownership information (BOI) report.

Who Must File?

- Domestic entities who were created by filing a document with the secretary of state or similar office under the law of a state or Native Tribe are subject to this reporting. Reporting Entities include corporations, limited liability companies ("LLCs") (including single-member LLCs), limited partnerships, limited liability partnerships, limited liability limited partnerships, and business trusts.
- Foreign entities, such as a corporation, LLC or other entity formed under the law of a foreign country, that is registered to do business in any U.S. state or Tribal jurisdiction by filing a document with a secretary of state or any similar office, are subject to this reporting.
- There are 23 exemptions to this filing. Below are the most notable exemptions. (However, refer to the "Ongoing Compliance" section below.)
    - Certain specified companies (e.g. banks, credit unions, insurance companies, state-licensed insurance providers, accounting firms, tax-exempt entities, securities broker/dealers) (refer to FAQ C.2. at the website www.fincen.gov/boi-faqs for a list of the exempt entity types)
    - Large operating entities that meet ALL of the following requirements:
        - employs more than 20 employees on a full-time basis;
        - files income tax returns with more than $5,000,000 in annual gross receipts or sales; and
        - has an operating presence at a physical office in the U.S.
    - Inactive entities that meet ALL of the following requirements:
        - the entity was in existence on or before January 1, 2020;
        - the entity is not engaged in active business;
        - the entity is not owned by a foreign person, either directly or indirectly, wholly or partially. "Foreign person" is defined as a person who is not a United States person. A "United States person" is defined in section 7701(a)(30) of the Internal Revenue Code of 1986 as a citizen or resident of the United States, domestic partnership and corporation, and other estates and trusts;

- the entity has not experienced any change in ownership in the preceding twelve-month period;
- the entity has not sent or received any funds in an amount greater than $1,000, either directly or through any financial account in which the entity or any affiliate of the entity had an interest, in the preceding twelve-month period; and
- the 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.

What Information is Required?

Each Reporting Entity must report the following information: full name of the Reporting Entity, any trade name or doing business name, business address, state or tribal jurisdiction of formation, and IRS taxpayer identification number. Additionally, information for each Beneficial Owner and, for entities formed or registered after 12/31/2023, each Company Applicant. That information includes the name, date of birth, residential address, and unique identifying number and issuing jurisdiction from an acceptable unexpired identification document (e.g. a driver's license or passport) and an image of such document. If the owner is a minor child, the parent's or guardian's information will be reported in place of the minor child's information.

A Beneficial Owner is any individual that (a) directly or indirectly through other entities owns or controls at least 25 percent of the ownership interest of a Reporting Entity or (b) exercises substantial control over a Reporting Entity. For ownership purposes, options and convertible instruments should be treated as if exercised. For corporations, ownership is calculated as the greater of either the total voting power of all ownership interest entitled to vote or the total outstanding value of all classes of ownership interest.

There is no limit to the number of individuals who can be reported for exercising substantial control. An individual exercises substantial control over a Reporting Entity if the individual meets any of four general criteria: (1) the individual is a senior officer or manager; (2) the individual has authority to appoint or remove certain officers or a majority of directors of the Reporting Entity; (3) the individual is an important decision-maker; or (4) the individual has any other form of substantial control over the Reporting Entity.

Company Applicants are individuals who (1) file the document creating a Reporting Entity and, if applicable, (2) the individual who was primarily responsible for directing or controlling the filing that created the Reporting Entity.

What is the Due Date?

On February 18, 2025, FinCEN announced a new filing deadline of March 21, 2025 for most reporting companies.

Ongoing Compliance

A Reporting Entity is required to update the information within 30 days of any change, such as through a change of address, sale, acquisition, merger, gift, or death. Additionally, if the entity met one of the filing exemptions initially, but subsequently does not meet the requirements for exemption, the entity must file the report within 30 days of the event that caused the entity to not meet the exemption.

Cautions

Non-compliance can result in penalties and possible imprisonment. The fines range from $500 per day and up to $10,000 per violation and jail time up to two years. Liability may be applied to the reporting entity or the senior officers.

Because the information you provide is sensitive in nature, we anticipate scam artists soliciting businesses to file these reports on their behalf. We highly recommend that you only provide information to someone you personally know. Additionally, we recommend that you do not provide personal information through unsecure email.

FinCEN Unique ID Number

Beneficial Owners and Company Applicants can obtain a FinCEN unique identifying number, which allows individuals to only provide the requisite personal information once. Reporting Entities can use the individual's FinCEN ID number instead of personal information for each filing. This may be beneficial if an individual is a Beneficial Owner or Company Applicant for numerous entities. An individual can obtain a FinCEN unique identifying number by creating an account and completing the form at https://fincenid.fincen.gov. If personal information changes, the individual can update his or her FinCEN identifier profile and the new information will automatically be applied to each Reporting Entity.

Additional Information

For additional information regarding the beneficial ownership reporting requirements under the CTA, you can refer to FinCEN's resources located at https://www.fincen.gov/boi. If you would like for us to assist, please contact us, and we will provide you with a CTA – BOIR Worksheet to complete. Please do not send us personal identifiable information via email. We will send you a secure link to upload the CTA – BOIR Worksheet and supporting documentation.

Conclusion

The information provided in this letter is current as of the date of this letter. With ongoing litigation, there may be changes to these requirements which you will need to monitor.