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US Corporate Transparency Act Reporting Deadline Approaching What You Need to Know

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Millions of existing companies formed or registered in the US on or before December 31, 2023, are required to file beneficial ownership information (BOI) reports on or before January 1, 2025, pursuant to the requirements of the Corporate Transparency Act (CTA). Many companies newly formed or registered in the US on or after January 1, 2024, **already faced these new requirements in 2024.**

With the new reporting requirements fast approaching, companies should have a plan to ensure compliance with the CTA and file any required reports on or before January 1, 2025. **Cooley will host a webinar on CTA compliance on Thursday, October 10, from 2:00 – 3:00 pm EDT.**

Key questions and answers about the CTA filing requirements and January 1, 2025, deadline

Which companies need to report and by when?

Companies formed or registered in the US on or before December 31, 2023, will need to file BOI reports with the US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) on or before January 1, 2025, **unless** they fall within one of the exemptions to the reporting requirements. Companies formed or registered on or after January 1, 2024, need to report within 90 days of formation or registration if formed in 2024, and within 30 days of formation or registration if formed in 2025 or later.

Reporting obligations apply to all nonexempt entities formed or registered in the US – including many non-US entities active in the US and US subsidiaries of non-US entities. Entities that existed at any point on or after January 1, 2024, that are not exempt also must file regardless of whether they are subsequently permanently dissolved under state law or no longer in existence.

Which companies are exempt from CTA reporting?

There are 23 categories of exemptions from BOI reporting requirements. Below are some exemptions that are likely to apply to many companies:

- Public companies that are reporting issuers under the Securities Exchange Act of 1934 (Exchange Act) or are otherwise registered with the Securities and Exchange Commission (SEC) under the Exchange Act.
- Large operating companies – which includes any company that employs more than 20 full-time employees in the US, has more than $5,000,000 in gross receipts or sales in the US, and has an operating presence at a physical office within the US.
- 501(c)(3) tax-exempt entities.
- Certain highly regulated companies (such as banks and insurance companies).
- Venture capital and private equity funds and their management companies (but portfolio companies and structuring vehicles

below the funds would require separate analysis).

- Subsidiaries of certain exempt entities, public companies and large operating companies, provided that the subsidiary's ownership interests are entirely controlled, or wholly owned, directly or indirectly, by one or more eligible exempt entities.

What does the BOI report need to include?

BOI reports must include information about the company (such as the address and taxpayer identification number) and the company's "beneficial owners." For companies formed or registered on or after January 1, 2024, the report also must include information about "company applicants" – certain individuals involved in the formation or registration of the company. The requirement to report company applicant information does not apply to companies formed or registered in the US on or before December 31, 2023.

What is a 'beneficial owner'?

A "beneficial owner" is any individual who, directly or indirectly, owns or controls at least 25% of the ownership interests of a reporting company, or otherwise exercises substantial control over a reporting company (even if they are not a 25% owner – for example, senior officers of the company). For an early-stage startup, the beneficial owners might simply be the founders of the company. For companies with complex ownership structures and/or control arrangements, the beneficial ownership analysis may be more nuanced, and you may need to coordinate with your investors to ensure that reporting companies in the ownership structure and their respective beneficial owners are properly identified and reported.

How do I submit a BOI report?

Generally, reporting companies can either prepare and submit their BOI reports directly through an online fillable form on FinCEN's BOI platform, or download a fillable PDF BOI reporting form and then upload and submit the form through the FinCEN portal. Instructions and links to submit BOI reports can be found on FinCEN's BOI **e-filing website** and **filing resources page**.

What are the penalties for not filing a BOI report?

While the BOI reporting rule does not provide penalties for negligent or accidental violations of the law, any person who willfully fails to report may be subject to civil or criminal penalties of up to $10,000 and up to two years in prison.

These points and others are discussed in more detail in this **Cooley GO article**.

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