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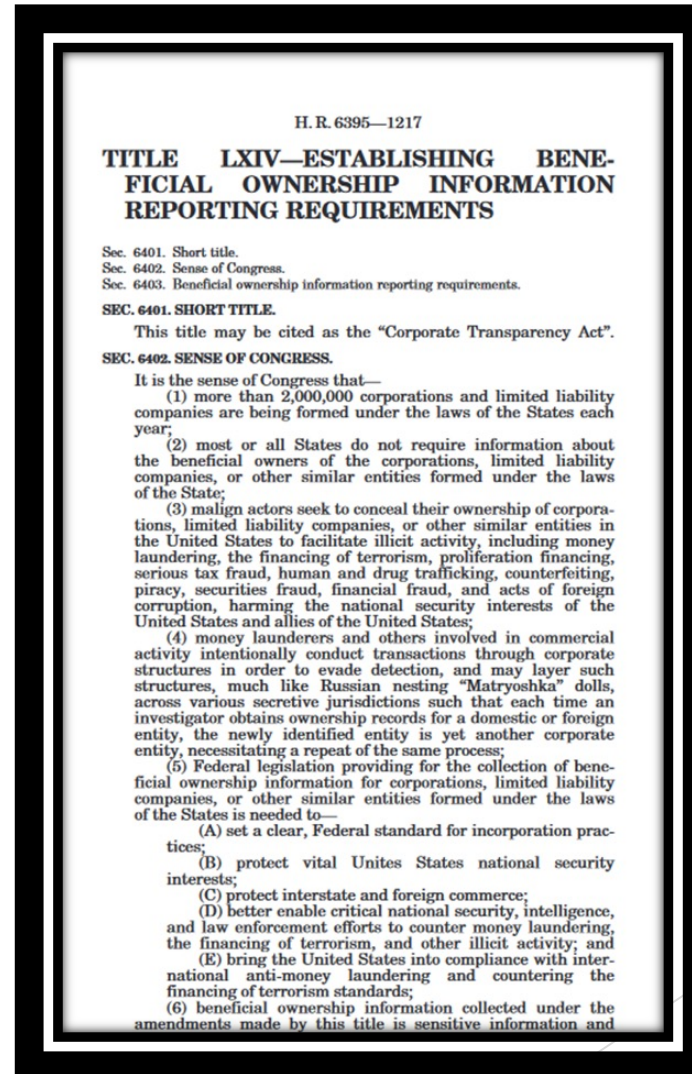
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# Corporate Transparency Act

The Corporate Transparency Act (CTA) is a federal law enacted in 2021 and effective January 1, 2024.

It was passed to combat money laundering, tax fraud, and other illicit activity, by capturing ownership information of certain small companies.

Under the law, “reporting companies” and “company applicants” must provide beneficial owner information (BOI) to the federal government.



# Key Terms Associated with the CTA

“Beneficial Owner Information” (BOI) is information regarding the individuals who ultimately own or control the company.

“Reporting Company” is a corporation, a limited liability company, or other company created in the United States by filing a document with a secretary of state or any similar office under the law of a state or Indian tribe; or a foreign company registered to do business in any U.S. state or Indian tribe by such a filing.

“Company Applicant” is an individual who directly files or is primarily responsible for the filing of the document that creates or registers the company.

“FinCEN” is the U.S. Department of the Treasury Financial Crimes Enforcement Network



# What Do I Need To Do and When?

If you qualify as a “reporting company” (and most of you do),  
you must file a BOI Report with FinCEN

- ▶ For companies created or registered BEFORE THIS YEAR (Before January 1, 2024) you must file a report by the end of this year (December 31, 2024)
- ▶ For companies created or registered THIS YEAR (2024) you must file a report within 90 days of registering the new company
- ▶ For companies created or registered NEXT YEAR (2025-) and thereafter you must file 30 days of registering the new company

# Who Has to Report?

Any “Reporting Company” that is not exempt must report.

Reporting Company: a corporation, a limited liability company, or other company created in the United States by filing a document with a secretary of state or any similar office under the law of a state or Indian tribe; or a foreign company registered to do business in any U.S. state or Indian tribe by such a filing.

# 23 Exemptions

*Most of these are highly regulated businesses with pre-existing legal reporting requirements.*

Securities reporting issuer

Governmental authority

Bank

Credit union

Depository institution holding company

Money services business

Broker or dealer in securities

Securities exchange or clearing agency

Other Exchange Act registered entity

Investment company or investment adviser

Venture capital fund adviser

Insurance company

State-licensed insurance producer

Commodity Exchange Act registered entity

Accounting firm

Public utility

Financial market utility

Pooled investment vehicle

Tax-exempt entity

Entity assisting a tax-exempt entity

Large operating company

Subsidiary of certain exempt entities

Inactive entity

# Exemptions

## ► Broker or dealer in securities

The entity is a “broker” or “dealer,” as those terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) AND

The entity is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o).

## ► Investment company or investment adviser

The entity is an “investment company” or “investment adviser” defined as either: An investment company in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3); or An investment adviser in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2). AND

The entity is registered with the Securities and Exchange Commission under either of these authorities: The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); or The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.).



# Exemptions

## ► Accounting Firms

The entity is a public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212)

# Exemptions

## ► Insurance Company

The entity is an “insurance company” as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a-2).

## ► State-licensed insurance producer

The entity is an insurance producer that is authorized by a State and subject to supervision by the insurance commissioner or a similar official or agency of a State AND has an operating presence at a physical office within the United States.

### § 80a-2. Definitions

(17) “Insurance company” means a company which is organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and which is subject to supervision by the insurance commissioner or a similar official or agency of a State; or any receiver or similar official or any liquidating agent for such a company, in his capacity as such.

# Exemptions

## ▶ Governmental Authority

- The entity is established under the laws of the United States, an Indian tribe, a State, or a political subdivision of a State, or under an interstate compact between two or more States. AND The entity exercises governmental authority on behalf of the United States or any such Indian tribe, State, or political subdivision.

## ▶ Tax-exempt entity

- The entity is an organization that is described in section 501(c) of the Internal Revenue Code of 1986 (Code) (determined without regard to section 508(a) of the Code) and exempt from tax under section 501(a) of the Code. **OR** The entity is an organization that is described in section 501(c) of the Code, and was exempt from tax under section 501(a) of the Code, but lost its tax-exempt status less than 180 days ago **OR** The entity is a political organization, as defined in section 527(e)(1) of the Code, that is exempt from tax under section 527(a) of the Code or 4. **OR** The entity is a trust described in paragraph (1) or (2) of section 4947(a) of the Code.

# Exemptions

- ▶ Large Operating Entity (in a nutshell)
- ▶ More than 20 full-time US employees
  - ❑ Employed an average of, at least, 30 hours of service per week with an employer

AND

- ▶ More than \$5,000,000 in gross receipts or sales

# Exemptions

## Large Operating Entity

- ▶ 1. The entity employs more than 20 full-time employees when applying the meaning of full-time employee provided in 26 CFR 54.4980H-1(a) and 54.4980H-3. In general, “full-time employee” means, with respect to a calendar month, an employee who is employed an average of at least 30 hours of service per week with an employer. AND
- ▶ 2. More than 20 full-time employees of the entity are employed in the “United States,” as that term is defined in 31 CFR 1010.100(hhh). AND
- ▶ 3. The entity has an operating presence at a physical office within the United States. “Operating presence at a physical office within the United States” means that an entity regularly conducts its business at a physical location in the United States that the entity owns or leases and that is physically distinct from the place of business of any other unaffiliated entity. AND
- ▶ 4. The entity filed a Federal income tax or information return in the United States for the previous year demonstrating more than \$5,000,000 in gross receipts or sales. If the entity is part of an affiliated group of corporations within the meaning of 26 U.S.C. 1504, refer to the consolidated return for such group. AND
- ▶ 5. The entity reported this greater-than-\$5,000,000 amount as gross receipts or sales (net of returns and allowances) on the entity’s IRS Form 1120, consolidated IRS Form 1120, IRS Form 1120-S, IRS Form 1065, or other applicable IRS form 6. When gross receipts or sales from sources outside the United States, as determined under the Federal income tax principle, are excluded from the entity’s amount of gross receipts or sales, the amount remains greater than \$5,000,000. AND
- ▶ 6. When gross receipts or sales from sources outside the United States, as determined under the Federal income tax principle, are excluded from the entity’s amount of gross receipts or sales, the amount remains greater than \$5,000,000.

# Exemptions

## Inactive Entity (all 6 must apply)

1. The entity was in existence on or before January 1, 2020.
2. The entity is not engaged in active business.
3. The entity is not owned by a foreign person, whether directly or indirectly, wholly or partially. “Foreign person” means 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.
4. The entity has not experienced any change in ownership in the preceding twelve-month period.
5. 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.
6. 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 have we learned so far?

- ▶ A preexisting “Reporting Company” that is not exempt must file a report with FinCEN before the end of 2024 and a newly formed “Reporting Company” (filed after 12-31-2023) that is not exempt must file even sooner

But what has to be filed?

# A BOI Report has to be filed

Under the CTA a non-exempt Reporting Company must file a Beneficial Ownership Information Report electronically with FinCEN.

A Beneficial Owner is an *individual* who:

- ▶ Owns or controls at least 25 percent of a company

**OR**

- ▶ Has “substantial control” over the company



# Beneficial Owners

- ▶ There can be multiple Beneficial Owners.
  - ❑ A Reporting Company could have one or more beneficial owners who exercise substantial control over company and one or more beneficial owners who own or control at least 25 percent of the ownership interests of the company.
  - ❑ A Reporting Company could have one beneficial owner who both exercises substantial control and owns or controls at least 25 percent of the ownership interests of the reporting company.
- ▶ There is no maximum number of beneficial owners who must be reported.the

# What is Substantial Control

- ▶ An individual exercises substantial control over a reporting company if the individual meets any of four general criteria:
  - ❑ Is a senior officer; (*President, Chief Financial Officer, General Counsel, Chief Executive Officer, Chief Operating Officer*)
  - ❑ Has authority to appoint or remove any Senior Officers or a majority of directors of the reporting company;
  - ❑ Is an important decision-maker; or
  - ❑ Has any other form of substantial control over the reporting company

# What is Substantial Ownership

- ▶ Reporting companies are required to identify all individuals who own or control at least 25 percent of the ownership interests of the company. Any of the following may be an ownership interest: equity, stock, or voting rights; a capital or profit interest; convertible instruments; options or other non-binding privileges to buy or sell any of the foregoing; and any other instrument, contract, or other mechanism used to establish ownership.
- ▶ A reporting company may have multiple types of ownership interests.

# What is Substantial Ownership

- ▶ Five exceptions to the definition of beneficial owner. When an individual who would otherwise be a beneficial owner of a reporting company qualifies for an exception, the reporting company does not have to report that individual as a beneficial owner in its BOI report to FinCEN.
  - ❑ Minor Child (under 18 in Ohio)
  - ❑ Nominee, intermediary, custodian, or agent
  - ❑ Employee
  - ❑ Inheritor
  - ❑ Creditor

# What has to be reported?

- ▶ For A Beneficial Owner:
  - ❑ Full Legal Name
  - ❑ Date of Birth
  - ❑ Complete address (residential)
  - ❑ Driver's license number, State ID number, of Passport number, and a copy of that document.
- ▶ For A Company Applicant
  - ❑ Full Legal Name/Trade Name
  - ❑ Complete address (business)
  - ❑ State, Tribal, or foreign jurisdiction of formation
  - ❑ EIN Employer

# Who is My Company Applicant?

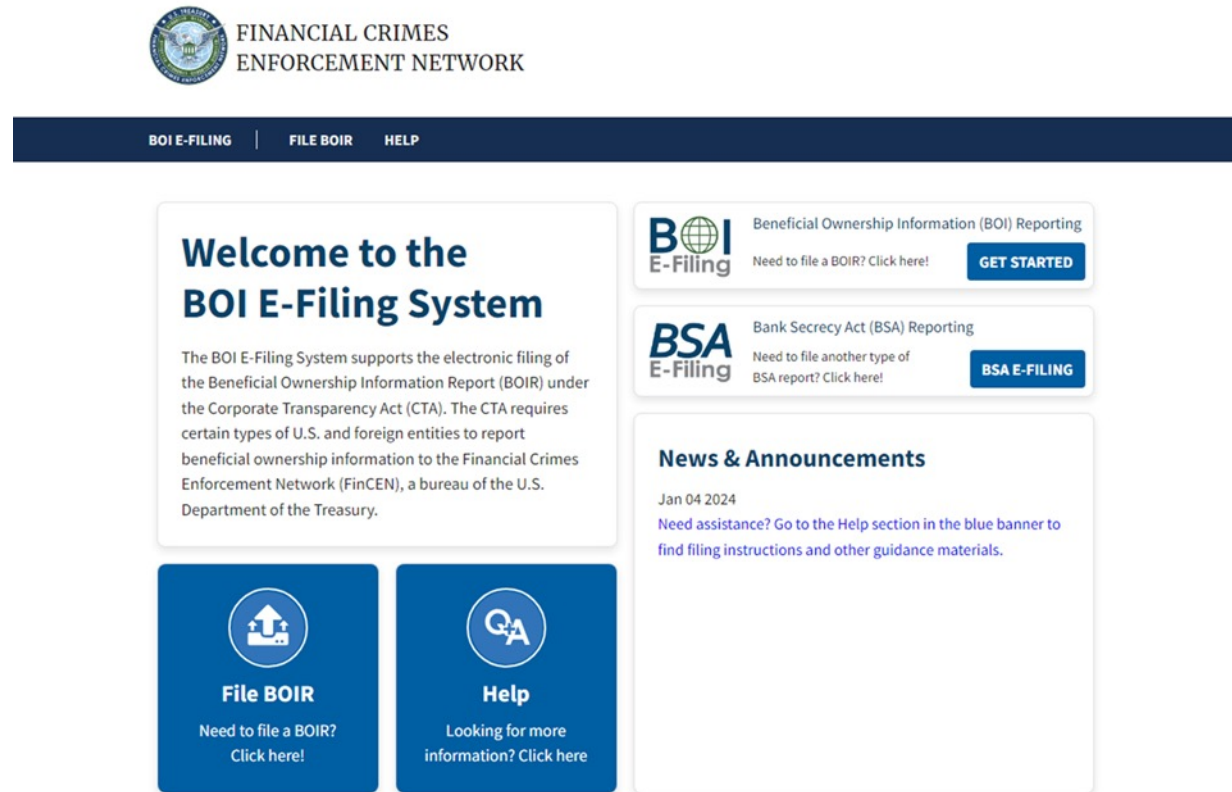
- ▶ Each reporting company that is required to report company applicants will have to identify and report to FinCEN at least one company applicant, and at most two. All company applicants must be individuals.
- ▶ Companies or legal entities cannot be company applicants.
- ▶ The “direct filer” is the Company Applicant
- ▶ If there is an individual who “directs or controls the filing action” that person must be identified by all reporting companies as a Company Applicant
- ▶ If more than one individual is involved in the filing, then two company applicants must be reported.
- ▶ No reporting company will have more than two company applicants

# Must I report my Company Applicants

- ▶ A reporting company is only required to report its Company Applicants if it is either a domestic reporting company created on or after January 1, 2024; or a foreign reporting company first registered to do business in the United States on or after January 1, 2024.
- ▶ A reporting company is NOT required to report its company applicants if it is either domestic reporting company created before January 1, 2024; or a foreign reporting company first registered to do business in the United States before January 1, 2024

# How do I file?

► <https://boiefiling.fincen.gov/>



The screenshot shows the homepage of the BOI E-Filing System. At the top is the Financial Crimes Enforcement Network (FinCEN) logo and name. Below this is a dark blue navigation bar with links for "BOI E-FILING", "FILE BOIR", and "HELP". The main content area is divided into several sections. On the left, a large white box with a blue header "Welcome to the BOI E-Filing System" contains a paragraph explaining the system's purpose. Below this are two blue buttons: "File BOIR" with a house icon and "Help" with a question mark icon. To the right of the welcome box are two smaller white boxes. The top one is for "Beneficial Ownership Information (BOI) Reporting" with a "GET STARTED" button. The bottom one is for "Bank Secrecy Act (BSA) Reporting" with a "BSA E-FILING" button. At the bottom right is a "News & Announcements" section with a date "Jan 04 2024" and a link to the "Help" section.

**FINANCIAL CRIMES ENFORCEMENT NETWORK**

[BOI E-FILING](#) | [FILE BOIR](#) | [HELP](#)

## Welcome to the BOI E-Filing System

The BOI E-Filing System supports the electronic filing of the Beneficial Ownership Information Report (BOIR) under the Corporate Transparency Act (CTA). The CTA requires certain types of U.S. and foreign entities to report beneficial ownership information to the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury.

**File BOIR**  
Need to file a BOIR?  
Click here!

**Help**  
Looking for more  
information? Click here

**BOI E-Filing** Beneficial Ownership Information (BOI) Reporting  
Need to file a BOIR? Click here! [GET STARTED](#)

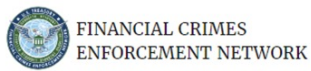
**BSA E-Filing** Bank Secrecy Act (BSA) Reporting  
Need to file another type of BSA report? Click here! [BSA E-FILING](#)

### News & Announcements

Jan 04 2024  
Need assistance? Go to the [Help](#) section in the blue banner to find filing instructions and other guidance materials.



# Filing BOI



## Beneficial Ownership Information Report (BOIR)

OMB No. 1506-0076

Complete the report in its entirety with all required information. Fields marked with an asterisk (\*) symbol are the fields that, at a minimum, must be completed by all companies to file the report. Reporting companies, however, must include all information 31 CFR 1010.380(b) requires them to provide, regardless of whether a field is marked with an asterisk (\*) symbol. These information requirements are summarized above under HELP.

Filing Information

Reporting Company

Company Applicant(s)

Beneficial Owner(s)

Submit

### Filing Information

Need help?

▼

- \*1. Type of filing:
- ☐ a. Initial report
  - ☐ b. Correct prior report
  - ☐ c. Update prior report
  - ☐ d. Newly exempt entity

2. Date prepared (auto-filled)

01/18/2024

Previous

Next

# FinCEN ID



FINANCIAL CRIMES  
ENFORCEMENT NETWORK

FINCEN ID | HELP

## Welcome to the FinCEN ID Application for Individuals

Sign in or Create an Account with LOGIN.GOV



### What is a FinCEN ID for individuals?

A FinCEN ID is a unique identifying number issued to an individual by FinCEN. Although there is no requirement to obtain a FinCEN ID, doing so can simplify the reporting process.



### What does a FinCEN ID do for individuals?

An individual beneficial owner or company applicant's FinCEN ID can be reported instead of required information about that individual on the reporting company's Beneficial Ownership Information Report (BOIR) submitted to FinCEN.



### How does an individual get a FinCEN ID?

To obtain a FinCEN ID for yourself, click the Create Account button to create an account and begin the application for a FinCEN ID. If you already have an account, login in to enter your identifying information on the FinCEN ID application. If you have additional questions, visit our Help Page.



# Should I get a FinCEN ID?

- ▶ A separate Beneficial Owner Report must be filed for each Reporting Company even if these Reporting Companies all have the same Beneficial Owner.
- ▶ Rather than submit the same information in multiple Beneficial Owner Reports, A Beneficial Owner (or Company Applicant) can obtain a FinCEN Identification number. Once obtained, this number can be entered on the reporting forms in lieu of separately listing all the Beneficial Owner Information.
- ▶ If there is a reportable change in ownership or control of the Reporting Company's Beneficial Owner, a Beneficial Owner that has a FinCEN identification number, can simply update the FinCEN identification number through FinCEN and all Reporting Companies associated with that FinCEN identification number will automatically be updated.

# What if Something Changes?

- ▶ If there is a change to the Beneficial Owner Report that was filed you must file an updated BOI report no later than 30 days after the date on which the change occurred.
- ▶ A change includes a change in ownership or control of the Reporting Company and also includes a change in address, change of name, and new driver's license number.
- ▶ This also applies to changes in information submitted by an individual to obtain a FinCEN identifier.
- ▶ A Reporting Company is not required to file an updated report for any changes to previously reported personal information about a company applicant.

# What if Something Changes?

- ▶ If you discover an error in a Beneficial Owner Report that your company filed, your company must correct it no later than 30 days after the date your company became aware of the inaccuracy or had reason to know of it. This includes any inaccuracy in the required information provided about your company, its beneficial owners, or its company applicants.
- ▶ This also applies to inaccuracies in information submitted by an individual to obtain a FinCEN identifier
- ▶ If the Reporting Company subsequently qualifies for an exemption you should file an updated Beneficial Owner Report to indicate that it is newly exempt from the reporting requirements.

# Who has access to my information?

- ▶ Under the Corporate Transparency Act, FinCEN will permit Federal, State, local, and Tribal officials, as well as certain foreign officials who submit a request through a U.S. Federal government agency, to obtain Beneficial Ownership Information for authorized activities related to national security, intelligence, and law enforcement.
- ▶ Financial institutions will have access to beneficial ownership information in certain circumstances, with the consent of the Reporting Company.
- ▶ FinCEN has indicated that beneficial ownership information reported to FinCEN will be stored in a secure, non-public database “using rigorous information security methods and controls typically used in the Federal government to protect non-classified yet sensitive information systems at the highest security level.”

# What if I don't file?

- ▶ Willfully failing to report complete or updated Beneficial Ownership Information or willfully providing or attempting to provide false or fraudulent Beneficial Ownership Information may result in civil or criminal penalties.
- ▶ \$500 for each day that the violation continues
- ▶ Criminal penalties including imprisonment for up to two years and/or a fine of up to \$10,000.
- ▶ Senior officers of an entity that fails to file a required BOI report may be held accountable for that failure.
- ▶ Additionally, a person may be subject to civil and/or criminal penalties for willfully causing a company not to file a required BOI report or to report incomplete or false beneficial ownership information to FinCEN
- ▶ There are no penalties for filing an inaccurate BOI report provided it is corrected within 90 calendar days of when it was filed.



# Thanks for joining us!

This presentation is available at [www.pselaw.com](http://www.pselaw.com)  
or by scanning the QR Code...

For assistance with the new CTA filing regulations,  
please contact the lawyers at Pickrel, Schaeffer & Ebeling  
at 937.223.1130.