

**HEADLINE**

- **Making Sense of the Corporate Transparency Act: The 4 Things to Know**

**ARTICLE****Making Sense of the Corporate Transparency Act: The 4 Things to Know**

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Beginning Jan. 1, 2024, almost every type of corporation, limited liability company, and other entity operating in the United States is required to report beneficial ownership information (BOI) to the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of Treasury. The new reporting requirements were passed by Congress in 2021 as the Corporate Transparency Act (Act), 31 U.S.C. §5336, and are part of the U.S. government's efforts to make it harder for bad actors to use shell companies or opaque ownership structures to launder or hide money or benefit from ill-gotten gains. Understandably, the Act has raised questions about its implementation and what exactly companies are required to do. The purpose of this article is to provide a quick overview of the Act and its requirements.

**1. Reporting Companies must disclose information regarding their beneficial owners.**

Effective Jan. 1, 2024, "beneficial owners" must disclose information regarding their ownership interest to FinCEN. Under 31 U.S.C. §5336(a)(3)(A), a "beneficial owner" is an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (i) exercises *substantial control* over the entity; or (ii) owns or controls not less than 25 percent of the *ownership interests* of the entity (Beneficial Owner).

An individual exercises "substantial control" over a reporting company and is thus a Beneficial Owner if the individual is a senior officer (such as CEA, CFO, etc.), has authority to appoint or remove a senior officer or a majority of the board of directors, is an important decision-maker for the company, or has any other form of substantial control over the reporting company. An individual has an ownership interest if he or she has equity, stock, 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.

Reporting companies may have many beneficial owners. However, reporting companies are not required to report the specific reason, whether by substantial control or ownership interests, that qualifies an individual as a beneficial owner.

**2. The Act requires Reporting Companies to disclose basic identifying information about the entity and its beneficial owners.**

Reporting Companies are required to submit the following: full legal name; all trade names and DBAs; the address of the principal place of business in the U.S.; the state, tribal or foreign jurisdiction of formation; and its Taxpayer Identification Number (TIN) (including the Employer Identification Number (EIN)).

Each Beneficial Owner must submit the following identifying information: the individual's full legal name; date of birth; current residential street address; and the unique identifying number, issuing jurisdiction and the image of a valid U.S. or state identification document.

**3. Reports must be submitted via FinCEN's online portal. The deadline to report is determined by the companies' creation or registration date.**

Reports must be submitted at [www.fincen.gov/boi](http://www.fincen.gov/boi) by the following dates:

- If a company was created or registered prior to Jan. 1, 2024, the company will have until Jan. 1, 2025, to report BOI.
- If a company was created or registered on or after Jan. 1, 2024, and before Jan. 1, 2025, the company must report BOI within 90 calendar days after receiving actual or public notice that your company's creation or registration is effective, whichever is earlier.
- If a company was created or registered on or after Jan. 1, 2025, the company must file BOI within 30 calendar days after receiving actual or public notice that its creation or registration is effective.

**4. Failure to timely report BOI may result in civil and criminal penalties.**

A willful failure to report a complete or updated BOI to FinCEN, or a willful provision of (or attempt to provide) false or fraudulent BOI may result in civil penalties of up to \$500 for each day that the violation continues, or criminal penalties including imprisonment for up to two years and/or a fine of up to \$10,000. An entity's senior officers who fail to file a BOI report as required may also be held accountable for that failure. In addition, a person may be subject to civil and/or criminal penalties for willfully causing a company not to file a BOI report as required, or for reporting incomplete or false BOI.

Business owners should familiarize themselves with the Act's requirements and ensure that all required information and documentation has been properly submitted to FinCEN in order to avoid civil and/or criminal penalties. Business owners and managers should consult with counsel if they have any questions or concerns regarding the matters discussed herein.

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