



Brave New World: The New Federal Reporting Law for Business Owners

By Anderson Beals and Steve Elzinga

Big Brother is watching you . . . starting in 2024.

Any individual who owns a minimum 25% interest in or who exercises “substantial control” over a small- or medium-sized business will soon be required to file reports with the federal government that include a photo image of a qualifying ID, along with other personal and business information. Codified at 31 USC 5336 and 31 CFR 1010.380, the law takes effect

in January 2024. Failure to timely file an initial or updated report (on the website that does not yet exist) may result in civil and/or criminal penalties.

Despite its name, the “Corporate Transparency Act” applies to most types of LLCs, partnerships, corporations, PCs, and other entities that are formed by filing a document with a state secretary of state or similar office. The general rule is that the obligation to report applies to all companies unless an exception applies, such as for nonprofits, certain business

categories, and large businesses. The exceptions generally apply to highly regulated organizations and industry sectors, like financial institutions and publicly traded companies. Entities required to report are called “reporting companies.”

Reports must be filed with the U.S. Department of Treasury’s Financial Crimes Enforcement Network (FinCEN) by anyone with at least 25% ownership or control, and by various business leaders and officers. Reports are due within 30 days of business formation or changes in ownership or control. FinCEN is considering extending the deadline to make an initial report following formation to 90 days. Reporting companies that existed prior to 2024 will have until January 1, 2025, to file an initial report.

Additionally, individuals who form the entity (including lawyers) must submit information with the initial report with similar personal information. A person forming a new reporting company in 2024 is referred to as a “company applicant.” For any new reporting company, there may be up to 2 people who would both be required to report information

about themselves as a “company applicant”: (1) a person who directs the process of forming a reporting company (such as a lawyer giving instructions to a paralegal); and/or (2) the person who physically does so (such as a paralegal who actually electronically files formation paperwork with a secretary of state or similar office).

Starting in 2024, any person may apply for a FinCEN identification number to avoid having to repeatedly provide the same information if they are involved in the formation of multiple reporting companies or if they are a beneficial owner of a reporting company.

Numerous nuances and exceptions exist. The exact format of reports and the mechanics of reporting is as-yet unknown because FinCEN has not yet created its portal for receiving reports. The Act imposes burdens that lawyers must be aware of if they represent small or medium-sized entities or individuals with an ownership interest in such entities. ■

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Corporate Transparency Act Resources



The Financial Crimes Enforcement Network (FinCEN) has created the following resources for the Beneficial Ownership Information Reporting Rule promulgated under the Corporate Transparency Act:

Home Page—www.fincen.gov/boi

Frequently Asked Questions—www.fincen.gov/boi-faqs

Reference Materials—www.fincen.gov/boi/Reference-materials

Small Business Resources—www.fincen.gov/boi/small-business-resources

Small Entity Compliance Guide—www.fincen.gov/boi/small-entity-compliance-guide

Quick References—
www.fincen.gov/boi/quick-reference

The following statement appears at the top of the FinCEN home page:

Alert: FinCEN has been notified of recent fraudulent attempts to solicit information from individuals and entities who may be subject to reporting requirements under the Corporate Transparency Act. The fraudulent correspondence may be titled "Important Compliance Notice" and asks the recipient to click on a URL or to scan a QR code. Those e-mails or letters are fraudulent. FinCEN does not send unsolicited requests. Please do not respond to these fraudulent messages, or click on any links or scan any QR codes within them.