

Insights

FinCEN Issues Final Rule for Beneficial Ownership Reporting to Support Law Enforcement Efforts, Counter Illicit Finance, and Increase Transparency

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On September 29, 2022, the Financial Crimes Enforcement Network (FinCEN) issued a final rule (Final Rule) implementing Section 6403 of the Corporate Transparency Act (CTA) (which was initially enacted on January 1, 2021 as part of the Defense Authorization Act for Fiscal Year 2021) that requires certain entities to file reports with FinCEN identifying and providing information about their beneficial owners and applicants. The CTA was created to develop standardized reporting, maintenance and disclosure of beneficial ownership information in order to strengthen national security and guard against money laundering, sanction evasion maneuvers, terrorism financing and other forms of illicit financial transactions. FinCEN had previously issued a notice of proposed rulemaking in December 2021 (Proposed Rule). The Final Rule is largely consistent with the framework proposed under the Proposed Rule but with a few modifications to address industry concerns expressed to FinCEN during the comment period.

The Final Rule will require any company created or registered in the US to disclose beneficial ownership information with FinCEN, with a few exceptions, including for companies that are already required to disclose beneficial ownership information to a government authority, or are otherwise exempt from the requirements.

The report to FinCEN must include information on:

- The reporting company itself.
- Every individual who is a beneficial owner of the reporting company.
- Every individual who is a company applicant.

The new reporting deadlines are as follows, unless a reporting exemption applies:

- Companies in existence before January 1, 2024 must file a report regarding the company's current beneficial owners no later than January 1, 2025*.
- Companies that are formed or registered on or after January 1, 2024 must file a report within 30 days of the date on which the formation or registration becomes effective under applicable law.

*The Final Rule differs from the draft CTA because existing reporting companies will not be required to identify the original company applicant; FinCEN recognized that identifying the person who originally filed the company's



formation documents could create a substantial burden on the company without commensurate benefit; the person originally responsible for formation of the company may no longer be employed by the company or may have a different role within the company.

Reporting companies also must provide updated reports to FinCEN in the event there are changes concerning the reporting company or its beneficial owners, or to correct inaccurately filed information.

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