

# Practical Implications of the Interim Final Rule for BOI Reporting Under the CTA

## WRITTEN BY

Daniel W. McDonough | P. Thao Le | P. Thomas Bright

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As we [previously discussed](#), the Financial Crimes Enforcement Network (FinCEN) published an [interim final rule](#) (IFR) on March 26 that narrowed the beneficial ownership information (BOI) reporting requirements under the Corporate Transparency Act (CTA). While the changes imposed by the IFR provide relief to U.S. entities and their beneficial owners, and to beneficial owners of foreign companies who are U.S. citizens, there are a few potentially unintended consequences that resulted from the IFR.

The IFR is not a final rule and is subject to a 60-day comment period. That comment period ends on May 27, which is after the new reporting deadline of April 25 for entities that became reporting companies before March 26. FinCEN said it intends to publish a final rule later this year.

Here are some practical implications of the IFR to keep in mind as you assess its impact.

### **Foreign Individuals and Companies Operating Through US Entities Are Generally Exempt**

The IFR exempts domestic entities from the CTA's BOI reporting requirements, regardless of whether such entities are ultimately owned by foreign or domestic individuals or whether there are intermediate foreign entities in the chain of ownership.

This means that foreign individuals that elect to form and use a domestic entity will not be subject to the CTA with respect to that entity. Further, foreign companies may elect to operate in the U.S. through domestic subsidiaries that do not meet any exemption from CTA reporting (other than the new, broad exemption available to domestic entities), and so long as the foreign parent itself does not register to do business in the U.S., it will (along with its domestic subsidiaries and its beneficial owners) avoid CTA reporting requirements.

These outcomes may create unintended incentives that could make illicit activity more difficult to detect than it would have been under the CTA's prior formulation.

### **Company Applicants Who Are US Persons May Still Be Required to Submit BOI**

The IFR amends 31 CFR §1010.380(d) to add a new subsection (4) to provide that reporting companies do not have to report the BOI of any U.S. persons who are beneficial owners and the corollary that U.S. persons do not have to provide BOI with respect to any reporting company for which they are a beneficial owner. Below is the

amended text:

(4) *Exemptions.* (i) Reporting companies are exempt from the requirement in 31 U.S.C. 5336 and this section to report the beneficial ownership information of any U.S. persons who are beneficial owners.

(ii) U.S. persons are exempt from the requirements in 31 U.S.C. 5336 and this section to provide beneficial ownership information with respect to any reporting company for which they are a beneficial owner.

Notably, the IFR does not explicitly modify the requirement that reporting companies that registered in the U.S. on or after January 1, 2024, must report the BOI of their company applicants. The lack of any substantive discussion about company applicants in the IFR suggests that reporting companies must report the BOI of company applicants even when a company applicant is a U.S. person.

However, other public statements from FinCEN cast doubt on the treatment of company applicants who are U.S. persons:

- Take, for example, the first sentence in FinCEN's [press release](#) announcing the changes under the IFR: "Consistent with the U.S. Department of the Treasury's March 2, 2025 announcement, the Financial Crimes Enforcement Network (FinCEN) is issuing an interim final rule that removes the requirement for U.S. companies and U.S. persons to report beneficial ownership information (BOI) to FinCEN under the Corporate Transparency Act."
- The term "beneficial ownership information" is defined in 31 CFR §1010.380(g)(2) as "any information provided to FinCEN under this section," which would include information about the company, its company applicants, and its beneficial owners. Therefore, FinCEN's statement above is incorrect with respect to removing the requirement for U.S. persons to report BOI if, in fact, U.S. persons are required to report BOI in their capacities as company applicants.
- Further, in an alert published on its website, FinCEN said it will not "enforce any beneficial ownership reporting penalties or fines against U.S. citizens." This would suggest that U.S. persons may be able to withhold their BOI as company applicants from reporting companies (without threat of enforcement by FinCEN), though reporting companies appear to remain required to report such information under the IFR.

If FinCEN intends to require company applicants who are U.S. persons to provide their BOI, it may have created an unintended interpretive question with respect to company applicants who are also beneficial owners — that is, if a U.S. person is a beneficial owner of a foreign company **and** a company applicant of such company, are they exempt from reporting their BOI in the capacity of an applicant?

The amended text of 31 CFR §1010.380(d) above broadly states that U.S. persons are exempt from providing BOI with respect to any company for which they are a beneficial owner. A plain reading of this language in isolation may be interpreted to mean that where a U.S. person is a beneficial owner of a company and a company applicant of that company, such person would not need to provide BOI to that company at all, whether as company applicant or beneficial owner.

However, on the whole, the CTA as modified by the IFR does not clearly articulate an exemption from the reporting requirements for U.S. persons who are company applicants, and a conservative reading would suggest that U.S. persons who are company applicants must still report their BOI.

This will be a topic to watch moving forward as FinCEN prepares a final rule, which may provide additional clarity about the reporting obligations of company applicants who are U.S. persons.

### **The BOI Report Has Been Changed**

In connection with the publication of the IFR, the BOI Report available on FinCEN's website has been modified to add a new field in Part II, Item 34. That item now includes a checkbox for if "All beneficial owners of the reporting company are U.S. persons." Previously, beneficial owner information was required in order to complete a report, but this checkbox enables a report to be filed without beneficial owner information in the event that all beneficial owners are U.S. persons.

### **Domestic Entities Do Not Need to Update or Correct Reports**

Domestic entities are now exempt from the CTA reporting requirements, which includes being exempt from updating or correcting previously submitted reports. Therefore, if a domestic company previously filed an initial CTA report and noticed an error in the report or had filed with incomplete information, it does not need to modify the report, and that entity has no further BOI reporting obligations under the CTA.

### **No Update Was Provided About Deactivating FinCEN Identifiers**

In preparation for CTA reporting, many individuals have applied for and obtained FinCEN identifiers, which would assist with efficient reporting. Presumably, many U.S. persons obtained FinCEN identifiers in connection with anticipated BOI reports for domestic entities that will no longer be necessary.

Obtaining a FinCEN identifier requires submitting BOI directly to FinCEN and further requires that the individual maintain the identifier by updating or correcting information associated with the FinCEN identifier within 30 calendar days of any change to the reported information.

FinCEN has previously commented (in [FAQ M.6.](#)) that it is "actively assessing options to allow individuals to deactivate a FinCEN identifier so that they do not need to update the underlying personal information on an ongoing basis."

To date, FinCEN has not provided a means to deactivate a FinCEN identifier and it did not address this topic in the IFR.

### **A Few Final Reminders**

While the IFR has dramatically changed the CTA and yielded some potentially surprising results, there are a few important reminders for reporting companies, as defined in the IFR, that will be subject to CTA reporting moving forward:

First, the filing deadline is (i) April 25 for any entity that became a reporting company before March 26, 2025, or (ii) 30 calendar days after notice of registration to do business in the U.S. for any entity that became a reporting company on or after March 26, 2025.

Second, remember that CTA reporting requirements will apply to reporting companies until they (i) meet one of the 24 exemptions from CTA reporting or (ii) irrevocably withdraw all registrations to do business in the U.S. (see [FAQ C.16](#) for more information about irrevocable withdrawal).

Lastly, all companies that were reporting companies on or after January 1, 2024, and do not meet an exemption at the time of their filing deadline, must make a CTA filing, even if they have irrevocably withdrawn their registration to do business in the U.S. since January 1, 2024.

We advise that clients should continue to monitor the developments related to the IFR in the lead-up to a potential final rule published by FinCEN later this year. Existing reporting companies should continue to prepare for filing by the April 25 deadline, and companies should be mindful of the CTA's reporting obligations for foreign entities that register to do business in the U.S. (and do not meet an exemption) moving forward.

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