

Corporate Transparency Act and FinCEN Required Reporting

We want to alert you to the new federal entity reporting requirements established under the Corporate Transparency Act (the “CTA”). Beginning on January 1, 2024, the CTA will require all entities (corporations, limited liability companies, limited partnerships, professional corporations, etc.) that have filed formation or registration documents within the United States, its territories, or an U.S. Indian Tribes to report their beneficial ownership information (“BOI”) to the Financial Crimes Enforcement Network (“FinCEN”).

This reporting requirement was implemented to identify and expose “bad actors” using shell companies registered in the United States for illicit activities such as money laundering, terrorism, tax evasion, and other financial crimes. Below is a summary of the specific reporting requirements set forth under the CTA.

WHO MUST REPORT

All domestic and foreign entities must report information on their beneficial owners, unless the entities meet one of 23 exceptions. The CTA divides beneficial owners into two categories:

1. Persons who directly or indirectly exercise substantial control over the company
2. Persons who own or control at least 25% of the ownership interests in the company

WHAT MUST BE REPORTED

The reporting entity itself must report the following to FinCEN:

1. Its full legal name, any trade name, and any “doing business as” name
2. A complete current address
3. The jurisdiction where the reporting company is registered
4. Its Taxpayer Identification Number or Employer Identification Number

The reporting company must also provide each of the following personal identifying information about each of its beneficial owners in its BOI report:

1. Legal name
2. Date of birth
3. Residential address (if an individual) or business address (if an entity)
4. Image of identification document, such as driver’s license or passport, containing a unique identifying number and the issuing jurisdiction

WHEN TO REPORT

Entities formed or registered *before* January 1, 2024 will have one year to file the BOI report. Entities created or registered *after* January 1, 2024 will have 30 days after receiving notice of creation or registration to file the BOI report. Additionally, if there are any changes in the information reported to FinCEN, the reporting company must correct the inaccurate information within 30 days.

HOW TO REPORT

Reporting companies will be required to file their BOI report electronically through the beneficial ownership secure system (“BOSS”) created by FinCEN. The system will be available on January 1, 2024, and we will provide an update detailing the BOSS reporting system once it becomes available.

PENALTIES

Willfully providing false information or failing to report or update beneficial owner information may result in significant penalties. Penalties start at \$500 per day for civil infractions, while criminal penalties include fines of up to \$10,000 and imprisonment for up to two years. If a report is filed that contains inaccurate information and the reporting company did not have actual knowledge of incorrect information, the company will be given a 90-day safe harbor period to submit an accurate report.

ABOUT WICK PHILLIPS

Wick Phillips is a full-service business law firm serving clients across Texas and the United States. Founded in 2004, the firm has grown to more than 85 attorneys, specializing in all areas of business law—complex commercial litigation and appeals, corporate transactions, labor and employment, real estate, intellectual property, bankruptcy, insurance coverage, tax, and securities—with offices in Austin, Dallas and Fort Worth.

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