

## **SIGNIFICANT PENALTIES FOR NON-COMPLIANCE**

### **Corporate Transparency Act Beneficial Ownership Information Reporting Requirement**

Starting January 1, 2024, the Corporate Transparency Act (“CTA”) went into effect. The CTA requires the disclosure of the beneficial ownership information (“BOI”) of certain entities from people who own or control a company. The CTA is not a part of the tax code, as the new BOI report will be filed with the Financial Crimes Enforcement Network (FinCEN), not the IRS.

Below is some information for you to consider regarding the new reporting requirement. This information is general in nature and should not be applied to your specific facts and circumstances without consultation with competent legal counsel and/or other retained professional adviser.

FinCEN has released a Small Entity Compliance Guide, as well as new FAQs addressing reporting requirements. <https://www.fincen.gov/boi>.

#### **What entities are required to comply with the CTA’s BOI reporting requirement?**

Entities organized both inside and outside the U.S. may be subject to the new reporting requirements. Companies required to report include:

- Any entity (i.e., Limited Partnership, Limited Liability Partnership, Limited Liability Company, Corporation, etc.) created by filing a document with a secretary of state or any similar office under the law of a state or Indian tribe; or
- A foreign company registered to do business in any U.S. state or Indian tribe by such a filing.

#### **When must companies file?**

The reporting deadline depends on when an entity is registered/formed or if there is a change to the beneficial owner’s information.

<b>Company Formation Date</b>	<b>BOI Initial Filing Deadline</b>
Before January 1, 2024	January 1, 2025
After January 1, 2024	Within 90 days of incorporation
After January 1, 2025	Within 30 days of incorporation

Reporting companies that have changes to previously reported information or discover inaccuracies in previously filed reports must file within 30 days.

### **Are there any exemptions from the filing requirements?**

Yes, there are 23 categories of exemptions. Included in the exemptions list are publicly traded companies, banks and credit unions, securities brokers/dealers, public accounting firms, tax-exempt entities, and certain inactive entities, among others. Please note these are not blanket exemptions. Refer to FinCEN's website for additional information regarding the criteria for each exemption.

### **Who is a beneficial owner?**

Any individual who, directly or indirectly, either:

- Exercises "substantial control" over a reporting company, or
- Owns or controls at least 25 percent of the ownership interests of a reporting company

An individual exercised substantial control over a reporting company if the individual meets **any** of four general categories:

1. The individual is a senior officer;
2. The individual has authority to appoint or remove certain officers or a majority of directors of the reporting company;
3. The individual is an important decision-maker; or
4. The individual has any other form of substantial control over the reporting company.

### **What sort of information is required to be reported?**

Companies must report the following information:

- Full name of the reporting company
- Any trade name or doing business as (dba) name
- Business address, state or tribal jurisdiction of formation
- IRS taxpayer identification number (TIN)

Additionally, information on the entity's beneficial owners and for newly created entities, the company applicants of the entity is required. This information includes full legal name, date of birth, current address, and unique identifying number and issuing jurisdiction from an acceptable identification document (e.g., a passport, driver's license, identification document issued by a state, local government, or tribe) and an image of such document.

### **Risk of non-compliance**

Penalties for willfully not complying with the BOI reporting requirement can result in criminal and civil penalties of \$591 per day (increased from \$500 effective 1/25/24), and a fine up to \$10,000 and/or imprisonment for up to two years.

### **Harper Pearson Reporting**

The BOI information to be reported arises from determinations that are primarily legal in nature. For various reasons, including concerns regarding the potential for the unauthorized practice of law, Harper & Pearson Company, P.C. is unable to prepare these forms or assist clients in preparing these forms.

We encourage you to contact legal counsel as soon as possible to determine how the CTA will impact your business. For more information, please visit <https://www.fincen.gov/boi>.