



The JPT Financial Newswire

A periodic newsletter from JPT Financial Solutions, Inc.

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JPT FINANCIAL SOLUTIONS, INC.

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BOI (BUSINESS OWNERSHIP INFORMATION) REPORTING

UPDATES POSTED 12/09/24

❖ **BOI FILING REQUIREMENT SUSPENDED**

<https://www.njcpa.org/stayinformed/hubs/topics/full-article/2024/12/04/boi-filing-requirement-suspended>

❖ **TEXAS FEDERAL COURT ISSUES NATIONWIDE INJUNCTION AGAINST ENFORCEMENT OF THE CORPORATE TRANSPARENCY ACT**

<https://natlawreview.com/article/texas-federal-court-issues-nationwide-injunction-against-enforcement-corporate>

❖ **CORPORATE TRANSPARENCY ACT REQUIREMENTS HALTED BY FEDERAL COURT**

<https://www.uschamber.com/small-business/how-to-comply-with-the-corporate-transparency-act-deadline>

ORIGINAL 11/27/24 COMMUNICATION

IMPORTANT & URGENT

This letter is to inform you of your possible reporting requirements to the Financial Crimes Enforcement Network (FinCen), a Department of the Treasury, for BOI (Beneficial Ownership Information) reporting regarding any entities that you may have a relationship with.

Please read through all details below to determine if this mandatory BOI reporting is applicable to you. Refer to the following sections in this communication for details on this mandatory filing requirement:

- What is FinCEN BOI Reporting?

- Who Must File?
- Important Filing Dates
- How to File?
- What Information Must be Provided?
- FinCEN Identifiers

If you determine that you have a BOI reporting requirement for an entity that you have a relationship with, and need our assistance in filing your mandatory BOI reports on the FinCEN portal:

- Please contact JPT Financial Solutions as soon as possible to comply with the filing deadlines and reporting requirements.
- To engage our services, please complete and return the BOI Reporting engagement contract found on our website https://jptfinancial.com/files/BOI_reporting_engagement_letter_v2024.1.pdf and provide all required information noted below to us in a timely fashion.
- All communications from you to JPT Financial Solutions to complete this BOI filing must be in writing, as required.
- **NOTE:** Given that most filings are likely to be straightforward, although a CPA is permitted to engage in the BOI report filing process, we officially notify each client that it may be more advisable for you to consult directly with an attorney to file your BOI report and/or respond to specific questions that you may have regarding your BOI entity filing.

If you have any questions about these new reporting rules and how they affect your business or other entity, please contact us.

JPT FINANCIAL SOLUTIONS INC.

What is FinCEN BOI Reporting?

- 1.) The Corporate Transparency Act (signed into law on January 1, 2021) expanded anti-money laundering laws and created **new reporting requirements starting in 2024 for certain companies doing business in the US.**
- 2.) Many small businesses are now required to report information about their beneficial owners to FinCEN in an effort to create a national database for use by national security and law enforcement agencies to prevent the use of shell companies for criminal activity.
- 3.) It is imperative that your company implement a system to identify reportable changes and file an updated report with FinCEN in a timely manner. The penalties for willfully failing to file both initial and updated reports are steep-\$500 per day that the report is late, up to \$10,000 and imprisonment for up to two years.

Who Must File?

1.) Review all BOI information and details found in the FinCEN websites, as follows:

<https://www.fincen.gov/boi>

FinCEN Beneficial Ownership Information

<https://www.fincen.gov/boi-faqs>

FinCEN BOI Frequently Asked Questions

- 2.) In general, the new BOI reporting requirements, effective January 1, 2024, apply to domestic and foreign companies created or registered to do business in the US by filing a document with the Secretary of State (or similar office). A company is considered a **reporting company** if a document was filed with the secretary of state (SOS) or similar office to create or register the entity.
- 3.) Corporations (including S corporations), all LLCs (single member and multi member), and other entities formed through the SOS **are subject to the reporting requirements**. These entities must file the BOI report with FinCEN and keep it updated.
- 4.) Since sole proprietorships (not filing as single member LLC), trusts, and general partnerships (not filing as multi-member LLC) do **not** require the filing of a formal document with the SOS, they **generally are not considered a reporting company** and **generally will not have a BOI filing requirement with FinEEN**.
- 5.) Limited Partnerships (LP's), Limited Liability Partnerships (LLP's) and Professional Corporations (PC's) **are required** to file a BOI report with FinCEN, unless these entities are registered under Sarbanes Oxley.
- 6.) Trusts (including a decedent trusts, grantor trusts, complex trusts and supplemental needs trusts):
- (a) Trusts are not generally considered reporting companies for BOT because they don't typically file articles of incorporation with the Secretary of State. Trusts created in states that don't require this filing are not considered reporting companies.
 - (b) Individuals associated with a trust, such as trustees, beneficiaries, or the settlor, may also be considered beneficial owners and be subject to the BOI reporting requirements.
 - (c) While a trust is normally not a reporting entity (very, very few types of trusts meet that test), it may provide indirect ownership and/or direct/indirect substantial control for someone associated with the trust for an entity that the trust itself holds an interest in (or just has some odd agreement with).
 - (d) Generally if a trustee has the right to sell assets held by the trust, the trustee will be deemed to indirectly hold the interests that are held in the name of the trust. Similarly, certain beneficiaries will end up with the same indirect ownership. The FinCEN websites above do outline certain situations that will make those parties beneficial owners via the trust, and also notes that they aren't the only ways that beneficial ownership could be created by being associated with a trust.
- 7.) Foreign companies **are required** to file a BOI report with FinCEN if they are registered with the SOS or similar office under state law.

8.) Exemptions:

- (a) There are 23 types of entities that are exempt from the reporting requirements, as noted in Question C.2 on the FinCEN website referred above. Carefully review the qualifying criteria before concluding that your company is exempt.
- (b) Some companies are exempt from reporting, but many of the exempted companies are already required to report ownership information to a governmental authority.
- (c) Of particular interest to you may be the exemption for **large operating companies**. A large operating company is any entity with (1) more than 20 full-time US employees, (2) an operating presence at a physical office within the US, and (3) more than \$5,000,000 of US-sourced gross receipts reported on its prior year federal income tax return. If you meet these qualifications, you are not subject to the new reporting requirements.

Important Filing Dates

- 1.) For existing reporting companies created or registered **before 2024**, the initial report is due by **January 1, 2025**.
- 2.) For reporting companies created or registered **in 2024**, the initial report is due **90 days after the entity's creation or registration**.
- 3.) For reporting companies created or registered going forward **after 2024**, the initial report is due **30 days after the entity's creation or registration**.
- 4.) Going forward, if there is ever a change to previously reported information about the reporting company or its beneficial owners, an updated report **must be filed within 30 days** of the change.

How to File?

- 1.) You are required to electronically file your entity's BOI reports on the FinCEN's e-filing portal, available at <https://boiefiling.fincen.gov/>. The portal provides two methods to submit a report:
 - (a) by filling out a web-based version of the form and submitting it online, or
 - (b) by uploading a completed PDF version of the BOI report.

There is no fee for filing the report

- 2.) Note that FinCEN also has a Small Entity Compliance Guide and frequently asked questions to help guide businesses through the reporting requirements. These are available at <https://www.fincen.gov/boi/small-business-resources>.
- 3.) In addition, some third-party service providers may also offer you the ability to file the BOI report through their software.

What Information Must be Provided?

- 1.) Reporting company legal name and alternate name (e.g. trade name, DBA) if applicable
- 2.) Reporting company tax identification number
- 3.) Reporting company current US address
- 4.) BOI for Company Applicants
 - (a) The company applicant is the person who actually files the document that creates or registers the reporting company (e.g., an attorney).
 - (b) For entities formed or registered after 2023, beneficial ownership information (BOI) must be reported for the reporting company's actual company applicants.
 - (c) Because of the difficulty in tracking down information about company applicants for reporting companies that have been in existence for a number of years, reporting companies formed or registered before 2024 do not have to supply BOI for their company applicants.
 - (d) Company applicant BOI includes an individual's full legal name, date of birth, street address and a unique ID number. The unique ID number can be from a non-expired US passport, state driver's license, or other government-issued ID card. If the individual does not have any of those documents, then a non-expired foreign passport can be used. An image of the document showing the unique ID number must also be included with the report.
- 5.) BOI for Beneficial Owners
 - (a) Two groups of individuals are considered beneficial owners of a reporting company:
 - (1) any individual who directly or indirectly owns or controls at least 25% of the *ownership* interests of the reporting company; or
 - (2) any individual who exercises substantial control over the reporting company.
 - (b) Individuals with substantial control are those with substantial influence over important decisions about a reporting company's business, finances, and structure. Senior officers (president, CFO, general counsel, CEO, COO, and any other officer who performs a similar function) are automatically deemed to have substantial control, as are individuals with the authority to appoint or remove senior officers and board members.
 - (c) There is no requirement that these individuals have actual ownership in the company to be a considered a beneficial owner for reporting purposes.
 - (d) Beneficial owner BOI includes an individual's full legal name, date of birth, street address and a unique ID number. The unique ID number can be from a non-expired US passport, state driver's license, or other government-issued ID card. If the individual does not have any of those

documents, then a non-expired foreign passport can be used. An image of the document showing the unique ID number must also be included with the report.

FinCEN Identifiers

- 1.) Individuals and reporting companies can request a FinCEN Identifier (FinCEN ID) to use in place of supplying detailed information on the report.
- 2.) A FinCEN ID is a unique number assigned by FinCEN which is obtained by submitting the same information as is required of a beneficial owner or reporting company.
- 3.) A FinCEN ID may be useful to individuals that prefer to send their personal information directly to FinCEN rather through a reporting company, or to individuals that may be required to supply information as a beneficial owner or company applicant of several reporting companies.

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