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Corporate Transparency Act: FinCEN Removes BOIR Requirements for U.S. Companies and U.S. Persons

Client Alert

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FinCEN's Interim Final Rule

On March 21, 2025, the Financial Crimes Enforcement Network ("FinCEN") issued its interim final rule ("IFR") regarding the enforcement of the Corporate Transparency Act ("CTA"). The IFR removes the beneficial ownership information reporting ("BOIR") requirements for U.S. companies and U.S. persons. Issuance of the IFR follows the March 3, 2025 press release of the United States Department of the Treasury ("Treasury"), which announced that the Treasury would not be enforcing the CTA against U.S. citizens or domestic reporting companies. The March 3 release was discussed in our previous Client Alert.

Revised Definition of "Reporting Company" Under the Interim Final Rule

The IFR makes the following significant changes:

- It revises the CTA definition of "reporting company" to include only entities formed under the law of a foreign country and that have registered to do business in any U.S. state or tribal jurisdiction by filing a document with a state's Secretary of State or similar office.
- It exempts from the BOIR requirements all entities created in the United States, including entities defined as "domestic reporting companies" under the CTA, and their beneficial owners.
- It also exempts U.S. persons who are beneficial owners of foreign reporting companies from the BOIR requirements. Foreign reporting companies are not required to provide beneficial ownership information about U.S. beneficial owners.

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New Deadlines for Reporting Companies

Foreign reporting entities must file their BOIRs by the later of 30 days after publication of the IFR in the Federal Register or 30 days after receiving notice that their U.S. registration is effective.

Possible Future Changes to BOIR Requirements?

FinCEN is soliciting comments on the IFR for 60 days following its publication and intends to finalize the rule in 2025. The finalized BOIR requirements could differ from those in the IFR. We will continue to monitor developments.

Observations

Although the IFR states that foreign reporting companies present “heightened national security and illicit finance risks,” it makes no comment on risks presented by foreign beneficial ownership of domestic companies. We frequently see non-U.S. based companies with U.S. operating subsidiaries and a top-level U.S. holding company. The operating subsidiaries often would have been exempt under the CTA from BOIR requirements (either because they were large operating companies themselves or because they were subsidiaries of a large operating company). However, the holding companies often would not have been exempt, usually because they had too few employees to qualify as a large operating company. Under the IFR, this problem has been eliminated. The holding companies will be exempt by virtue of being formed in a U.S. jurisdiction. We will monitor whether this remains true once a final rule is issued.

As mentioned in our previous Alert, it’s possible that the IFR will be challenged as an unconstitutional exercise of executive power, since it effectively rewrites a Congressional statute. Litigation challenging the CTA remains pending in several forums. Though the IFR would seem to moot any injunction proceedings, the cases may continue since the CTA remains a valid statute and the government could change its enforcement position. It’s not clear what effect the IFR will have on attempts introduced in Congress to repeal or modify the CTA.

What Should You Do?

U.S. companies may pause their efforts to complete their BOIRs, as they do not have reporting obligations under the IFR. Foreign reporting companies that have foreign beneficial owners should prepare to report their BOIRs to FinCEN and submit by the new deadlines provided in the IFR.

Please contact any author of this Client Alert with any questions or concerns that you may have regarding your reporting company’s obligations under the CTA.

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