

FinCEN Clarifies Beneficial Ownership Reporting Requirements for Entities Winding Up or Ceasing to Exist

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PRACTICE AREAS

- Corporate

An McV Corporate Alert

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On September 10th, the Financial Crimes Enforcement Network (“FinCEN”) provided further clarification on the beneficial ownership information (BOI) reporting requirements under the Corporate Transparency Act (“CTA”) for reporting companies that wind up their affairs or cease to exist before their BOI report is due.

Key Update

As previously noted in FinCEN’s July update to the CTA frequently asked questions (“FAQs”), any legal entity meeting the definition of a reporting company that winds up its affairs or ceases to exist before its BOI report is due must still comply with the CTA’s reporting requirements. This applies even if the entity dissolves rapidly thereafter. Additionally, a foreign reporting company that was registered to do business in the United States on or after January 1, 2024, is required to comply with the CTA’s BOI reporting requirements, even if it winds up its affairs and ceases to conduct business in the U.S. before the report is due.

However, any company that ceased to exist as a legal entity prior to January 1, 2024, is not required to comply with the CTA’s BOI reporting requirements, as it was never subject to these obligations.

Who Is a “Reporting Company”?

As highlighted in previous McV Alerts, a “reporting company” refers to (1) any domestic or foreign corporation, limited liability company, or other similar entity created or registered to do business in the United States (including Puerto Rico) by filing a document with a secretary of state or similar office, and (2) that does not qualify for any of the exemptions provided under the CTA.

When Does a Reporting Company Cease to Exist?

According to FinCEN, a reporting company is considered to have ceased to exist once it has fully wound up its affairs, ceased conducting business, and completed the formal process of dissolution. Entities that are administratively dissolved or suspended generally do not cease to exist as legal entities unless

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their dissolution or suspension becomes permanent. These entities may still be subject to the CTA's reporting requirements.

Reporting Requirements Post-Dissolution

Regardless of when a reporting company is dissolved—except for those dissolved prior to 2024—the BOI report must be filed by the applicable deadline. If a report is filed after a reporting company has ceased to exist, the company must provide FinCEN with the information that most accurately reflects the company's status prior to dissolution. Once the report is filed, no further reporting is required to notify FinCEN that the company has ceased to exist.

You can access the full set of FAQs from FinCEN <https://www.fincen.gov/boi-faqs>.

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