

## **FinCEN ISSUES PROPOSED RULES ON DISCLOSING – AND PROTECTING – OWNERSHIP INFO**

*Social:* The Corporate Transparency Act intensifies disclosure of beneficial ownership info to authorities. FinCEN is proposing access restrictions and requirements.

The Financial Crimes Enforcement Network (FinCEN) has issued a Notice of Proposed Rulemaking that would implement provisions of the Corporate Transparency Act (CTA) that govern the access to beneficial ownership information (BOI).

The [notice](#) proposes how BOI can be disclosed; how financial institutions and regulators would access such information; protection of this information; and penalties for failing to follow applicable requirements, among other details. The regs would kick in on Jan. 1, 2024.

The proposed regs follow the final reporting rule that FinCEN issued on Sept. 30, 2022, requiring most corporations, LLCs and other similar entities created in or registered to do business in the U.S. to report information about their beneficial owners to FinCEN. (“Beneficial owner” is generally defined as an individual with at least 25% of the ownership interests of an entity.)

Implementation of the CTA promises, authorities claim, greater exposure of “criminals, corrupt actors and anyone trying to hide ill-gotten gains in the United States.” The Act authorizes FinCEN to disclose BOI “under specific circumstances” to five categories of recipients:

- U.S. federal, state, local and Tribal government agencies requesting the information for specified purposes;
- Foreign law enforcement, judges, prosecutors, central authorities and competent authorities (foreign requesters);
- Financial institutions (FIs) using BOI to facilitate compliance with customer due diligence requirements;
- Federal functional regulators and other appropriate regulatory agencies assessing FIs for compliance with customer due diligence; and
- The U.S. Department of the Treasury.

The CTA gives the American Treasury “a unique degree” of access to BOI, including making the information available to any Treasury official whose duties require BOI inspection or disclosure or for tax administration. The new proposed rule aims to track these authorizations.

Also under the proposed rule, foreign requesters would be required to make their requests for BOI through intermediary federal agencies. In addition to meeting other criteria, requests from foreign requesters would have to be made either under an international treaty, agreement or convention or via a request made by law enforcement or other legal authorities in a trusted foreign country.

Proposals are one thing, databases another: The task is still ahead for FinCEN to gather and keep safe such a wealth of owners’ information.

Your tax specialist needs to stay on top of this s and many other issues of wealth, foreign income and tax enforcement. If we can help, please let us know.

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