

Insights

On Again, Off Again: FinCEN's New Interim Final Rule on the Corporate Transparency Act – U.S. Entities and Citizens Exempt from Reporting Requirements

Article

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Anyone who has followed the on-again, off-again history of the Corporate Transparency Act's (CTA) Beneficial Owner Information (BOI) reporting requirements will not be surprised that, effective March 26, the Financial Crimes Enforcement Network (FinCEN) has issued an Interim Final Rule removing domestic reporting companies (any entity created by filing a document with a secretary of state or similar office under the laws of a U.S. State or Indian Tribe) and their beneficial owners from the scope of "reporting companies" required to file BOI reports under the CTA. In other words, for domestic entities, BOI reporting is "off-again."

What is the CTA?

The CTA was enacted for the purpose of curbing money laundering, terrorism financing, and other illicit activities. The law generally requires "reporting companies" and their respective "beneficial owners" to report certain information (as detailed further in the prior Lowndes article dated September 12, 2023) to FinCEN, a bureau within the United States Department of the Treasury, and to timely report any changes to said information. Initially, a "reporting company" included any domestic or foreign entity registered to do business in the U.S. that did not fall into one of 23 specific exceptions. A "beneficial owner" is defined as any individual who owns at least 25% of, or exercises substantial control over, an entity.

What does the Interim Final Rule Say?

In accordance with a rebalancing by the current administration of the benefits of the CTA versus the related regulatory burdens of its imposition on American businesses and citizens, the Interim Final Rule effectively limits the applicability of the CTA reporting requirements to *foreign entities and individuals*. Domestic entities are no longer required to file BOI reports. Furthermore, the rule exempts foreign reporting companies from providing BOI reports for beneficial owners who are U.S. citizens and exempts U.S. citizens from having to provide information to any foreign reporting

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company for which they are a beneficial owner.

For foreign reporting companies, the CTA reporting obligations remain in effect. However, the Interim Final Rule does extend the deadline to file initial reports (and correct any previously filed reports) to 30 days following the date of publication of the rule.

When will FinCEN's Interim Final Rule become effective?

The Interim Final Rule is currently in effect. FinCEN will be accepting written comments on the Interim Final Rule up until May 27, 2025, after which a final rule will be adopted, potentially with modifications based on public comments. However, the interim nature of the current rule does not have any bearing on its effectiveness, as under the Administrative Procedure Act (APA) an interim final rule is effective as of the date of adoption by the related federal agency without the need for prior notice or public comment.

For further questions regarding the status of the Interim Final Rule, or whether you or your company may still have reporting obligations under the CTA, please reach out to any member of the Lowndes Corporate Group for guidance.