

Beneficial Ownership Information: Who, Where, When and How

Domestic Reporting Company Beneficial Ownership

The Financial Crimes Enforcement Network (FinCEN), a bureau of the United States Department of the Treasury, lists two types of corporations required to file Beneficial Ownership Information. These are domestic and foreign. A domestic reporting company is defined as having its creation filed with a Secretary of State Department or similar governmental institution under state law.

Please note that if your corporation was created and registered on or after January 1, 2024, you will also need to list the Company Applicant. This is the individual(s) who filed the documents originally establishing the corporation.

FinCEN defines a beneficial owner is an individual who:

- Owns or controls a minimum of 25% of the corporation
or
- Has substantial control over the corporation.

FinCEN defines substantial control as:

- A Senior Officer
- Who has the authority to appoint or remove other Officers
- And makes important operational decisions (business, financial, structural)

What actual data needs to be gathered and reported?

For the recording company, FinCEN is requesting the following:

- The Corporation's Legal Name
- Trade or Alternate Names such as d/b/a and a/k/a, if applicable
- Current Street Address. Please note that a P.O. Box is not allowed. In absence of a street address for the corporation, you may list your Registered Agent's address.
- Jurisdiction of Corporation's formation or registration
- Corporation's Tax Identification Number

For Beneficiary Owners (and Company Applicant if relevant):

- Individual's Name
- Date of Birth
- Residential Address
- Government-issued identifying number such as from a Passport or Driver's License. Please note that an image of this ID will need to be uploaded to the site when filing. It does not have to include a photo of the individual.

Where to File

Filing should be made directly on the FinCEN website: [BOI E-FILING \(fincen.gov\)](https://www.fincen.gov)

While the filing process on the government site does seem fairly straight forward and is free, C&M as your legal counsel is available to file these reports on your corporation's behalf. We will need to be provided in writing the above data, and there will be an administrative fee for the service. Also, requests made after December 1 of this year cannot be guaranteed on-time submission.

Deadlines for Filing

If your corporation was created on or before January 1, 2024:
File no later than December 31, 2024

If your corporation was created and registered during the 2024 calendar year:
You have 90 days to file from that time.

If your corporation is created and registered on or after January 1, 2025:
You have 30 days to file from that time.

Corrections and Updates

All changes to your filing report should be made via the same source as original submission. When filing, you will see an option box at the start listing original, correction, update. Check the applicable box.

There are no penalties for filing an inaccurate report provided that corrections are made within 90 days of the filing date.

Reports do not need to be filed every year. However, Boards (and most with Association Boards) change frequently and each time one occurs a new update is required within 30 days of its occurrence. This can mean adding or removing board members, name changes through marriage or divorce, and address changes. You do not need to list the Officer's title, so no update is needed if two previously reported beneficiary owner board members are switching positions. You also do not need to update changes to the company applicant if listing one was originally required. If you list the registered agent as your primary address, and then change agents or they have their own change of name or address, then an update will also be needed.

Penalties for Not Complying

Failure to comply prior to the above designated deadlines will carry consequences for the corporation. Penalties for anyone willfully violating the reporting requirements could be liable for up to \$500 a day of ongoing non-compliance, and criminal penalties could be up to two years of imprisonment plus a \$10,000 fine.

Exemptions

The obligation to comply with the Corporate Transparency Act and file the Beneficial Owner Information Report (BOI) applies to all corporations (profit, not-for-profits, partnerships, limited partnerships, LLCs) and any other entity that is created with and registered with the State of Florida (or other relevant government entities). Therefore, your Association, whether HOA, COA, Co-Op, Timeshare, Commercial, Non-Residential, Mobile Home, or other, is likely to be required and should expect to file in the abundance of precaution.

However, the government does list certain types of corporations which are excluded and each with specific parameters. None of these are anticipated to relate to our clients, but for your own knowledge, these exemptions consist of:

- Securities reporting issuer
- Governmental authority
- Bank
- Credit union
- Depository institution holding company
- Money services business
- Securities broker or dealer
- Other Exchange Act registered entity
- Investment company or adviser
- Venture capital fund adviser
- Insurance company
- State-licensed insurance producer
- Commodity Exchange Act registered entity
- Accounting firm
- Public utility
- Financial market utility
- Pooled investment vehicle
- Tax-exempt entity
- Large operating company
- Subsidiary of certain exempt entities
- Inactive entity

In recent days we have had a number of clients inquire if they were exempt because the Association is non-profit. Unfortunately, chances are you are not. Unless the IRS has formally designated your corporation as tax-exempt, you are required to file. If you're not certain of your status, check with your tax handler.

Large operating company refers to a corporation with over \$5 million in assets is only applicable for the year that threshold is met. If your revenue goes below, you will need to file even if your corporation qualified the year before and will again the year after.

Similarly, for a corporation to be exempt as inactive, they must be officially processed as such for a full calendar year to be qualified. If the process spills over into January, you wouldn't qualify as exempt until the following year.

C&M appreciates your ongoing trust in us to provide you with proper and reliable legal advice. Please feel free to contact Client Services if you wish to schedule an appointment with an attorney to discuss any specific concerns about filing the BOI. You may also read more about this change on the FinCEN and Sunbiz websites:

[United States Department of the Treasury Financial Crimes Enforcement Network | FinCEN.gov](https://www.fincen.gov)

[Reporting of Beneficial Ownership Information - Division of Corporations - Florida Department of State](https://www.sunbiz.org)

This article was written by our [Coordinator of Client Services, David Batan](#). David has been with the firm for many years assisting our clients on a complimentary basis.



If you have any questions, please contact:

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