

## **Alert** | Financial Regulatory & Compliance



July 2024

### **FinCEN Issues FAQs on Dissolved Entities' Beneficial Ownership Reporting Requirements**

#### **Go-To Guide:**

- FinCEN has issued new guidance on the beneficial ownership information (BOI) reporting requirements under the Corporate Transparency Act (CTA) for non-exempt entities (Reporting Companies) dissolved after the CTA's effective date of Jan. 1, 2024.
- Reporting Companies created before Jan. 1, 2024, but dissolved on or after Jan. 1, 2024, must, according to this new guidance, file a BOI report.
- Similarly, Reporting Companies created on or after Jan. 1, 2024, but dissolved before the expiration of their filing deadline (currently, 90 days from creation) must also, according to this new guidance, file BOI reports.
- This guidance may impact transactions that involve forming and dissolving corporate entities as part of the transaction structure as well as recently formed corporate entities that have been dissolved.

The CTA mandates that, starting on Jan. 1, 2024, certain U.S. legal entities and foreign entities registered to do business in the United States (collectively, Reporting Companies) disclose certain BOI to the U.S.

Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).<sup>1</sup> FinCEN has noted that, as of April 30, 2024, over a million BOI reports have been submitted.

On July 8, 2024, FinCEN updated its CTA Frequently Asked Questions (FAQs) to, among other things, identify BOI reporting requirements for certain entities that are or will be dissolved prior to any applicable CTA filing deadline.

### **Does a Company that Ceased to Exist Have to Submit an Initial BOI Report?**

- Companies that ceased to exist as a legal entity before the reporting requirements went into effect on Jan. 1, 2024, are not required to report BOI to FinCEN.
- Companies that continued to exist as a legal entity for any period on or after Jan. 1, 2024, must report BOI to FinCEN, even if the company wound up its affairs and ceased conducting business before Jan. 1.
- Companies created or registered on or after Jan. 1, 2024, that subsequently cease to exist are required to report BOI to FinCEN, even if they cease to exist before their initial BOI report is due.

Notably, this guidance contradicts the prevailing industry view that an obligation to file a BOI report attaches only if the company exists as of the date of its filing deadline.

### **When Does a Company 'Cease to Exist'?**

- Although FinCEN defers to the laws of the jurisdiction where the company was created or registered, a company ceases to exist when it has entirely completed the process of formally and irrevocably dissolving.
- Although state or Tribal law may vary, some examples of a completed dissolution process include:
  - Filing dissolution paperwork with the jurisdiction of creation or registration;
  - Receiving written confirmation of dissolution;
  - Paying related taxes or fees;
  - Ceasing to conduct any business; and
  - Winding up all affairs (i.e., fully liquidating the company and closing all bank accounts).
- Companies that are administratively dissolved or suspended generally do not cease to exist as a legal entity unless the dissolution or suspension becomes permanent.

### **Are There Post-Dissolution BOI Reporting Requirements?**

FinCEN does not require the Reporting Company to file an additional report noting that the company has ceased to exist.

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<sup>1</sup> GT covered BOI reporting requirements in detail in a [January 2024 GT Alert](#).

## Conclusion

As the regulatory landscape continues to evolve, entities must remain informed about updates from FinCEN. With the Jan. 1, 2025, reporting deadline for many entities drawing near, FinCEN is expected to continue providing guidance on CTA compliance.

[Learn about GT's CTA Task Force.](#)

## Authors

This GT Alert was prepared by:

- [Kyle R. Freeny](#) | +1 202.331.3118 | [freenyk@gtlaw.com](mailto:freenyk@gtlaw.com)
- [Marina Olman-Pal](#) | +1 305.579.0779 | [Marina.Olman@gtlaw.com](mailto:Marina.Olman@gtlaw.com)
- [Tiffanie Monplaisir](#) | +1 305.579.0682 | [Tiffanie.Monplaisir@gtlaw.com](mailto:Tiffanie.Monplaisir@gtlaw.com)

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