

documents, and some interested parties have requested additional time to review and submit comments. The Departments value public feedback as they consider whether and how to issue final rules and future guidance. In response to these requests, the Departments are extending the period for submitting comments on the proposed rules to October 17, 2023. Additionally, to ensure consistency with the comment period for the proposed rules, DOL is simultaneously extending the comment period for Technical Release 2023–01P to October 17, 2023. To be assured consideration, comments on the proposed rules and Technical Release must be received no later than October 17, 2023.

Dated: September 22, 2023.

**Douglas W. O'Donnell,**

*Deputy Commissioner for Services and Enforcement, Internal Revenue Service.*

**Lisa M. Gomez,**

*Assistant Secretary, Employee Benefits, Security Administration, Department of Labor.*

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

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## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### 31 CFR Part 1010

RIN 1506–AB62

#### Beneficial Ownership Information Reporting Deadline Extension for Reporting Companies Created or Registered in 2024

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** FinCEN is proposing to amend the beneficial ownership information (BOI) reporting rule (Reporting Rule) to extend the filing deadline for certain BOI reports. Under the Reporting Rule, entities created or registered on or after the rule's effective date of January 1, 2024, must file initial BOI reports with FinCEN within 30 days of notice of their creation or registration. This proposed amendment would extend that filing deadline from 30 days to 90 days for entities created or registered on or after January 1, 2024, and before January 1, 2025, to give those entities additional time to understand the new reporting obligation and collect

the necessary information to complete the filing. Entities created or registered on or after January 1, 2025, would have 30 days to file their BOI reports with FinCEN, as required under the Reporting Rule.

**DATES:** Written comments on this proposed rule may be submitted on or before October 30, 2023.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal:*

<https://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2023–0014 and the Office of Management and Budget (OMB) control number 1506–0076.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2023–0014 and OMB control number 1506–0076.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at [frc@fincen.gov](mailto:frc@fincen.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

In this NPRM, FinCEN is proposing to amend the Reporting Rule<sup>1</sup> to extend the deadline to file initial BOI reports for entities created or registered on or after the rule's effective date of January 1, 2024, and before January 1, 2025. Under the Reporting Rule, such entities must file initial BOI reports with FinCEN within 30 days of notice of their creation or registration. The proposed amendment would extend that filing deadline from 30 days to 90 days for entities created or registered on or after January 1, 2024, and before January 1, 2025, to give those entities additional time to understand the new reporting obligation and collect the necessary information to complete their filings. Entities created or registered on or after January 1, 2025, would have 30 days to file their BOI reports with FinCEN, as required under the Reporting Rule.

##### II. Background

On September 30, 2022, FinCEN published the Reporting Rule, with an effective date of January 1, 2024.<sup>2</sup> The

<sup>1</sup> Treasury, FinCEN, Beneficial Ownership Information Reporting Requirements, 87 FR 59498 (Sept. 30, 2022).

<sup>2</sup> The Reporting Rule is the first in a series of rulemakings to implement the CTA, enacted on January 1, 2021, as part of the Anti-Money Laundering Act of 2020 and codified at 31 U.S.C. 5336. The CTA is Title LXIV of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283 (Jan. 1, 2021) (the NDAA). Division F of the NDAA is the

Reporting Rule requires certain corporations, limited liability companies, and other similar entities (“reporting companies”)<sup>3</sup> to report certain identifying information about the beneficial owners who own or control such entities and the company applicants who form or register them.<sup>4</sup> These requirements are intended to facilitate access to BOI for certain authorized recipients, including law enforcement and regulators, for the purpose of countering money laundering, the financing of terrorism, and other illicit activity.<sup>5</sup> The Corporate Transparency Act (CTA) directs FinCEN to promulgate regulations that achieve the objectives of the statute, while minimizing burdens on reporting companies to the greatest extent practicable and ensuring that the BOI collected is “highly useful” for national security, intelligence, and law enforcement activities.<sup>6</sup>

The Reporting Rule requires reporting companies to report to FinCEN within prescribed time periods information about themselves, as well as information about two categories of individuals: (1) the beneficial owners of the reporting company; and (2) the company applicants, who are the individuals who filed a document to create the reporting company or register it to do business. For a domestic or foreign reporting company created or registered to do business in the United States before the rule's effective date of January 1, 2024, an initial BOI report must be filed by January 1, 2025.<sup>7</sup> For a reporting company created or registered on or after January 1, 2024, however, the Reporting Rule requires that an initial BOI report must be filed within 30 days of the earlier of the date on which it receives actual notice or public notice that it has been created or registered.<sup>8</sup>

##### III. Proposed Extension of Time for Certain Reporting Companies

FinCEN proposes to extend the period for certain reporting companies to file initial BOI reports. Under this proposed amendment to the Reporting Rule, reporting companies created or registered on or after January 1, 2024, and before January 1, 2025, would have 90 days to submit their initial BOI

Anti-Money Laundering Act of 2020, which includes the CTA.

<sup>3</sup> See 31 U.S.C. 5336(a)(11).

<sup>4</sup> See U.S. Department of the Treasury (Treasury), FinCEN, Beneficial Ownership Information Reporting Requirements, 87 FR 59498, 59498–99 (Sept. 30, 2022).

<sup>5</sup> Public Law 116–283, Section 6402 (Jan. 1, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> 31 CFR 1010.380(a)(iii).

<sup>8</sup> 31 CFR 1010.380(a)(i)–(ii).

reports, instead of 30 days.<sup>9</sup> Reporting companies formed on or after January 1, 2025, would continue to be required to submit their initial BOI reports within 30 days.

In the preamble to the Reporting Rule, FinCEN explained its expectation that a 30-day timeframe for initial reports would provide sufficient time for reporting companies to resolve various issues after initial creation, including obtaining necessary information and identifying their beneficial owners with sufficient time to file an initial report.<sup>10</sup> Upon continued dialogue with partners in the private sector, including trade associations, non-profits, and other key stakeholder organizations, FinCEN believes that extending the deadline for reporting companies created or registered on or after January 1, 2024, and before January 1, 2025, to file an initial BOI report from 30 to 90 days will have multiple benefits.<sup>11</sup>

First, this extension will increase the time available for these entities to understand and comply with their new regulatory obligations under the Reporting Rule. FinCEN recognizes that there are many aspects of the Reporting Rule that newly created or registered entities will need to navigate, including whether the new legal entity falls under the definition of “reporting company” or qualifies for an exemption, the meaning of “beneficial owner” under the rule, and the application of other key terms and requirements. FinCEN is developing simple, easy-to-read guidance and educational materials such as frequently asked questions (FAQs), videos, infographics, and compliance guides to help reporting companies comply with the new rules. FinCEN published initial guidance and educational materials on March 24, 2023, and a Small Entity Compliance Guide on September 18, 2023. FinCEN aims to publish additional materials in the near future. Additionally, FinCEN continues to conduct extensive outreach

to ensure that all stakeholders understand their obligations and how best to seek assistance to have their questions answered. Yet FinCEN recognizes the novelty of the BOI reporting requirement and the need to provide filers, many of which are interfacing with FinCEN for the first time, particular consideration when it comes to the reporting deadline for entities created or registered in 2024.

Second, the extension will provide new reporting companies additional time to obtain the information necessary to complete their initial BOI reports. The Reporting Rule requires reporting companies to obtain and report certain BOI to FinCEN. At the outset of the implementation of the rule, making and responding to requests for BOI will be an unfamiliar exercise for many new companies or third-party service providers, and beneficial owners. FinCEN recognizes that additional time could greatly benefit these parties, particularly those who have not interacted with FinCEN before.<sup>12</sup>

Furthermore, the extension will give reporting companies more time to resolve questions that may arise in the process of completing their initial BOI reports. FinCEN continues to work actively to develop and issue guidance and educational materials such as FAQs, videos, infographics, and compliance guides to help reporting companies complete and submit their BOI reports to FinCEN. FinCEN also continues to engage in extensive outreach to ensure that stakeholders are able to submit BOI reports in a streamlined and efficient manner. Reporting companies and other stakeholders may want more time to become familiar with these guidance and educational materials given the new obligations and reporting timeframes. In addition, reporting companies may wish to consult with a third-party service provider such as an accountant or lawyer, or to contact FinCEN with an inquiry. FinCEN aims to establish a contact center prior to January 1, 2024, to field questions about the BOI reporting requirements from reporting companies and other stakeholders. Extending the reporting deadline from 30 to 90 days will allow all parties additional time to resolve questions about the new reporting requirements. It will also help FinCEN manage the volume of contact center inquiries and provide more comprehensive customer service by giving reporting companies and other stakeholders more time to consult guidance materials and

internally resolve questions about the new requirements.

The proposed extension to 90 days would apply to both domestic and foreign entities created or registered in the United States in the first year after the Reporting Rule becomes effective, but entities created or registered on or after January 1, 2025, would remain subject to the 30-day deadline established in the Reporting Rule. FinCEN believes that extending the time period in the first year is appropriate because of the novelty of the beneficial ownership reporting regime created by Congress under the CTA. For the first time, the United States is now requiring legal entities to submit beneficial ownership information to a centralized, Federal Government database, and the reporting requirements are likely to be entirely new to business owners, corporate formation professionals, secretary of state offices, and other key stakeholders. After January 1, 2025, however, FinCEN expects that the BOI reporting requirements will be more familiar to those involved in corporate formation, and newly created or registered companies should be in a better position to promptly file their BOI reports.

Although FinCEN believes that providing this additional time and flexibility for reporting companies created or registered in 2024 to file their initial BOI reports will benefit reporting companies and their service providers, FinCEN recognizes that the extension could cause a delay in submissions to the BOI database in the first year of its operation. For example, under the proposed rule, if entities are created or registered on December 31, 2024, they would have until April 1, 2025 (90 days after December 31, 2024) to submit their initial BOI reports. In contrast, under the Reporting Rule, law enforcement could expect all compliant reporting companies created or registered on or before December 31, 2024, to have submitted their initial BOI reports by January 30, 2025 (30 days after December 31, 2024). With all of that taken into account, FinCEN still believes that the potential adverse effects of any such delay in the first year of the program are outweighed by the relief they will provide for small businesses, as explained above. FinCEN solicits comment on this assessment, and on whether there are any other potential consequences of the extension that it has not identified.

#### IV. Regulatory Analysis

FinCEN has analyzed the proposed rule as required under Executive Orders 12866, 13563, and 14094; the Regulatory

<sup>9</sup> CTA, Section 6402(8)(a).

<sup>10</sup> Treasury, FinCEN, Beneficial Ownership Information Reporting Requirements, 87 FR 59498, 59511 (Sept. 30, 2022).

<sup>11</sup> Although the CTA provides that reports are to be filed by entities created or registered on or after January 1, 2024 “at the time of formation or registration,” FinCEN may prescribe an exemption from that requirement consistent with the directive to ensure that the database is highly useful to law enforcement while at the same time minimizing burdens on reporting companies. FinCEN believes it is appropriate to do so for entities created or registered on or after January 1, 2024 and before January 1, 2025 for the reasons explained below. See 31 U.S.C. 5336(b)(1)(C). Under 31 U.S.C. 5318(a)(7), FinCEN has authority to “prescribe an appropriate exemption from a requirement under this subchapter,” which includes the CTA in section 5336.

<sup>12</sup> See Reporting Rule, 31 CFR 1010.380(b)(1)(i).

Flexibility Act; the Unfunded Mandates Reform Act; and the Paperwork Reduction Act. This proposed rule would not have an annual effect on the economy of \$200 million or otherwise constitute a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, as amended. Pursuant to the Regulatory Flexibility Act, FinCEN certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. FinCEN assessed that this proposed rule would result in no additional costs to small businesses. Furthermore, pursuant to the Unfunded Mandates Reform Act, FinCEN has concluded that the proposed rule would not result in an expenditure of \$177 million or more annually by state, local, and Tribal governments or by the private sector.<sup>13</sup> FinCEN does not estimate any burden, as defined by the Paperwork Reduction Act, associated with the proposed rule.

FinCEN assesses that the extension of the reporting deadline for entities created or registered in the first year of the reporting requirement will not impose new costs. The costs for BOI reporting have been estimated in the regulatory impact analysis (RIA) in the Reporting Rule.<sup>14</sup> In that RIA, FinCEN estimated the total number of reporting companies in 2024, the first year that the Reporting Rule will go into effect, to be approximately 32.6 million. The Reporting Rule RIA also estimated the costs for these reporting companies in filing their initial BOI reports, analyzing the potential cost of each step in the filing process.<sup>15</sup> FinCEN’s analysis in the final Reporting Rule would not be changed by an extension of the reporting timeline for new reporting companies created or registered in 2024 from 30 days to 90 days.

FinCEN acknowledges that this change would shift some of the estimated aggregate cost in the Reporting Rule RIA from “Year 1” (2024) to “Year 2” (2025) in the analysis. This shift in cost is difficult to quantify. However, FinCEN assesses

<sup>13</sup> The Unfunded Mandates Reform Act requires an assessment of mandates that will result in an annual expenditure of \$100 million or more, adjusted for inflation. The U.S. Bureau of Economic Analysis reports the annual value of the gross domestic product (GDP) deflator in 1995, the year of the Unfunded Mandates Reform Act, as 71.823, and as 127.224 in 2022. See U.S. Bureau of Economic Analysis, “Table 1.1.9. Implicit Price Deflators for Gross Domestic Product” (accessed Friday, June 2, 2023). Thus, the inflation adjusted estimate for \$100 million is  $127.224/71.823 \times 100 = \$177$  million.

<sup>14</sup> See Treasury, FinCEN, Beneficial Ownership Reporting Requirements, 87 FR 59549–59591 (Dec. 8, 2021).

<sup>15</sup> *Id.*

that the shift of these costs would be *de minimis* and would not change the conclusions of the Reporting Rule’s RIA. Additionally, the per-reporting company burden and cost estimate in the Reporting Rule RIA would not be affected by this proposed change.

Furthermore, as discussed in Section III, FinCEN notes that the proposed change in the reporting timeline for reporting companies created or registered in 2024 would likely have multiple benefits. These benefits include additional time for these reporting companies to understand and comply with the requirements of the Reporting Rule as well as greater opportunities for FinCEN to efficiently respond to questions and address problems that reporting companies may have in complying. FinCEN invites comment on whether the proposed rule may provide for other benefits to reporting companies, their service providers, or other stakeholders. FinCEN also solicits comments on whether any aspects of this proposed rule would result in cost or burden, or whether the proposed rule would affect the estimate of the cost, burden, and impact of the Reporting Rule in the Reporting Rule’s RIA.

### Proposed Regulatory Text

#### List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Banks and banking, Brokers, Business and industry, Citizenship and naturalization, Commodity futures, Crime, Currency, Electronic filing, Federal savings associations, Federal-States relations, Foreign persons, Holding companies, Indians, Indian—law, Indians—tribal government, Insurance companies, Investigations, Investment advisors, Investment companies, Law enforcement, Penalties, Reporting and recordkeeping requirements, Securities, Small business, Terrorism, Time.

For the reasons set forth in **SUPPLEMENTARY INFORMATION**, FinCEN proposes to amend part 1010 of chapter X of title 31 of the Code of Federal Regulations, as amended September 30, 2022, at 87 FR 59498, effective January 1, 2024, as follows:

### PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 2006, Pub. L. 114–41, 129 Stat. 458–459; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 2. In § 1010.380, revise (a)(1)(i)–(ii) to read as follows:

#### § 1010.380 Reports of beneficial ownership information.

(a) Reports required; timing of reports—

(1) Initial report. Each reporting company shall file an initial report in the form and manner specified in paragraph (b) of this section as follows:

(i) (A) Any domestic reporting company created on or after January 1, 2024, and before January 1, 2025, shall file a report within 90 calendar days of the earlier of the date on which it receives actual notice that its creation has become effective or the date on which a secretary of state or similar office first provides public notice, such as through a publicly accessible registry, that the domestic reporting company has been created.

(B) Any domestic reporting company created on or after January 1, 2025, shall file a report within 30 calendar days of the earlier of the date on which it receives actual notice that its creation has become effective or the date on which a secretary of state or similar office first provides public notice, such as through a publicly accessible registry, that the domestic reporting company has been created.

(ii) (A) Any entity that becomes a foreign reporting company on or after January 1, 2024, and before January 1, 2025, shall file a report within 90 calendar days of the earlier of the date on which it receives actual notice that it has been registered to do business or the date on which a secretary of state or similar office first provides public notice, such as through a publicly accessible registry, that the foreign reporting company has been registered to do business.

(B) Any entity that becomes a foreign reporting company on or after January 1, 2025, shall file a report within 30 calendar days of the earlier of the date on which it receives actual notice that it has been registered to do business or the date on which a secretary of state or similar office first provides public notice, such as through a publicly accessible registry, that the foreign reporting company has been registered to do business.

**Andrea M. Gacki,**

*Director, Financial Crimes Enforcement Network.*

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