



Unveiling the Corporate Veil: A Comprehensive Guide to the Corporate Transparency Act

Written By: MMM CTA Task Force



Matt Peurach
Partner
404.504.7755

mpeurach@mmmlaw.com



Matt Flower
Partner
404.495.8492

mflower@mmmlaw.com



Lili Martin-Mashburn
Partner-Elect
919.433.2824

lmartin-mashburn@mmmlaw.com



Rebecca Arrington
Associate
404.504.7729

rarrington@mmmlaw.com

On January 1, 2021, Congress enacted the Corporate Transparency Act (“CTA”) as part of the Anti-Money Laundering Act of 2020 in the National Defense Authorization Act for Fiscal Year 2021. The CTA aims to create a centralized beneficial ownership registry by mandating certain businesses to disclose critical ownership information. On September 29, 2022, the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”) issued a final rule (“Final Rule”) for the CTA, which outlines specific requirements for companies reporting beneficial ownership information (“BOI”). On November 8, 2023, FinCEN published another final rule that provides the criteria certain companies must meet in order to report an intermediate entity’s FinCEN identifier (as discussed below) in place of BOI. That final rule can be found [here](#). Additionally, on November 30, 2023, FinCEN published another final rule that extends the filing deadline for certain BOI reports. That final rule can be found [here](#). All reporting requirements under the CTA will become effective on January 1, 2024. FinCEN published a Small Entity Compliance Guide to help small businesses comply with the CTA’s beneficial ownership reporting requirements, which can be found [here](#), and FinCEN’s updated Frequently Asked Questions can be found [here](#). Additionally, the New York legislature has passed CTA-equivalent legislation that, if signed by the Governor into law, could add additional reporting requirements.¹ The requirements addressed below should be reviewed in connection with the most recent guidance released from FinCEN and applicable state law.

The CTA emerged in response to mounting concerns about the misuse of corporate structures for nefarious purposes, including money laundering, terrorism, tax evasion, fraud, and other criminal activities. To combat these concerns, it aims to ensure that the true beneficial owners of companies are identified and reported. To that end, the CTA requires certain companies, called “reporting companies,” to file a report that identifies two categories of individuals: (i) the reporting company’s beneficial owners and (ii) the reporting company’s company applicant(s). This White Paper provides an overview of which entities are required to provide reports, which are exempt, what information entities are required to report, the timeline for compliance, and the penalties for non-compliance.

I. Who is Required to Report?

Under the CTA, any company meeting the definition of a “reporting company” must file BOI reports with FinCEN. A “reporting company”² is simply any entity that is (i) created by the filing of a document with a secretary of state or equivalent office or is a foreign entity that is registered to do business within the United States,³ and (ii) does not qualify for any one of the 23 exemptions under the CTA.⁴ As stated in the Final Rule, the only relevant consideration in determining if a company is a reporting company is whether a filing created the entity - the fact that the filing was voluntary, pursuant to a conversion or reorganization, or for any other purposes is immaterial to the analysis.⁵

A company will not be considered a reporting company, and therefore not required to file a BOI report, if it qualifies for one of the 23 exemptions set forth in the Final Rule.⁶ Generally, these exemptions include businesses that are already heavily regulated and required to make similar beneficial ownership disclosures. Whether a company qualifies for one of the exemptions must be analyzed under the specific

¹ The New York legislature has passed a state-level CTA equivalent act. The bill that has passed both houses, but has not yet been signed into law can be found [here](#).

² The Final Rule distinguishes between a “domestic reporting company,” which is an entity that is created by the filing of a document with a secretary of state or similar office of a jurisdiction within the United States, and a “foreign reporting company,” which is any entity created under the law of a foreign jurisdiction that is registered to do business within the United States. Both domestic and foreign reporting companies are subject to BOI reporting requirements unless they qualify for an exemption.

³ “States” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other commonwealth, territory, or possession of the United States.

⁴ The CTA includes an option for the Secretary of the Treasury, with the written concurrence of the Attorney General and the Secretary of Homeland Security, to exclude by regulation, additional types of entities.

⁵ Under this interpretation, a general partnership would typically not be a reporting company.

⁶ See footnote 4.

definition of each exemption. A simplified explanation of the exempt entity categories follows, but the full rule and requirements can be found [here](#).

Entities Exempt From Reporting BOI Under the CTA:

1. **Securities Reporting Issuers** that are registered under Section 12 of the Securities Exchange Act of 1934 (the “1934 Act”) or are required to file supplementary and periodic information under Section 15(d) of the 1934 Act.
2. **Governmental Authorities** that are established under the laws of the United States, an Indian tribe, a State or a political subdivision of a State, or under an interstate compact between two or more States, and exercises governmental authority.
3. **Banks** as defined in Section 3 of the Federal Deposit Insurance Act, Section 2(a) of the Investment Company Act of 1940 (the “Investment Company Act”), or Section 202(a) of the Investment Advisers Act of 1940 (the “Investment Advisers Act”).
4. **Federal or State Credit Unions** as defined in Section 101 of the Federal Credit Union Act.
5. **Depository Institution Holding Companies** as defined in Section 2 of the Bank Holding Company Act of 1956, or any savings and loan holding company as defined in Section 10(a) of the Home Owners’ Loan Act.
6. **Money Services Businesses** registered with FinCEN under 31 U.S.C. 5330 or 31 C.F.R. 1022.380.
7. **Brokers or Dealers in Securities** as defined in Section 3 of the 1934 Act and are registered under Section 15 of the 1934 Act.
8. **Securities Exchange or Clearing Agencies** as defined in Section 3 of the 1934 Act and are registered under Sections 6 or 17A of the 1934 Act.
9. **Other Exchange Act Registered Entities** that are not described in the previous exemptions and are registered with the Securities and Exchange Commission under the 1934 Act.
10. **Investment Companies or Investment Advisers** as defined in Section 3 of the Investment Company Act or in Section 202 of the Investment Advisers Act and are registered with the Securities and Exchange Commission under the Investment Company Act or the Investment Advisers Act.
11. **Venture Capital Fund Advisers** that are described in Section 203(l) of the Investment Advisers Act, and have filed Item 10, Schedule A, and Schedule B of Part 1A of Form ADV, with the Securities and Exchange Commission.
12. **Insurance Companies** as defined in Section 2 of the Investment Company Act.
13. **State-Licensed Insurance Producers** that are authorized by a State and subject to supervision by the insurance commissioner or a similar official or agency of a State, and have an operating presence at a physical office within the United States.
14. **Commodity Exchange Act Registered Entities** as defined in Section 1a of the Commodity Exchange Act or are registered with the Commodity Futures Trading Commission under the Commodity Exchange Act or defined as a “futures commission merchant,” “introducing broker,” “swap dealer,” “major swap participant,” “commodity pool operator,” “commodity trading advisor,” or “retail foreign exchange dealer” under the Commodity Exchange Act.
15. **Public Accounting Firms** registered in accordance with Section 102 of the Sarbanes-Oxley Act of 2002.
16. **Regulated Public Utilities** as defined in 26 U.S.C. 7701(a)(33)(a) providing telecommunications services, electrical power, natural gas, or water and sewer services within the United States.

17. **Financial Market Utilities** designated by the Financial Stability Oversight Council under Section 804 of the Payment, Clearing, and Settlement Supervision Act of 2010.
18. **Pooled Investment Vehicles** as defined in Section 3(a) of the Investment Company Act and are operated or advised by any of the following exempt entities: a bank, credit union, broker or dealer in securities, investment company or investment adviser, or venture capital fund adviser.
19. **Tax-Exempt Entities** that are (i) described in Section 501(c) of the Internal Revenue Code of 1986 (as amended, the “Code”), (ii) described in Section 501(c) of the Code, and were exempt from tax under Section 501(a) of the Code, but lost its tax-exempt status less than 180 days ago, (iii) political organizations, as defined in Section 527(e)(1) of the Code, that are exempt from tax under Section 527(a) of the Code, or (iv) trusts described in paragraph (1) or (2) of Section 4947(a) of the Code.
20. **Entities Assisting a Tax-Exempt Entity** that (i) operate *exclusively* to provide financial assistance to, or hold governance rights over, any tax-exempt entity described by Exemption 19, (ii) are a United States person as defined in Section 7701(a)(30) of the Code, (iii) are beneficially owned or controlled exclusively by one or more United States persons that are United States citizens or lawfully admitted for permanent residence, and (iv) derive at least a majority of its funding or revenue from one or more United States persons that are United States citizens or lawfully admitted for permanent residence.
21. **Large Operating Companies** that (i) employ more than 20 full-time employees,⁷ (ii) maintain an operating presence at a physical office within the United States,⁸ and (iii) filed a U.S. tax return in the previous year reporting over \$5 million in gross receipts or sales.⁹
22. **Subsidiaries of Certain Exempt Companies** whose ownership interests are controlled or *wholly* owned, directly or indirectly, by one or more of the exempt entities included above¹⁰ (other than by a pooled investment vehicle, a money transmitting or money services business, an entity that operates exclusively to provide financial assistance to or hold governance rights over tax-exempt entities, or an inactive entity).
23. **Inactive Entities** that (i) were in existence on or before January 1, 2020, (ii) are not engaged in active business, (iii) not owned by a foreign person, whether directly or indirectly, wholly or partially,¹¹ (iv) have not experienced any change in ownership in the preceding twelve-month period, (v) have not sent or received any funds in an amount greater than \$1,000, either directly or through any financial account in which the entity or any affiliate of the entity had an interest, in the preceding twelve-month period, and (vi) do not otherwise hold any kind or type of assets, whether in the United States or abroad, including any ownership interest in any corporation, limited liability company, or other similar entity.

⁷ The exempt entity must be the employer and it may not consolidate employees across affiliated entities, meaning the employees must be counted at each entity level. A full-time employee is generally any person employed an average of at least 30 service hours per week or 130 service hours per month, with adaptations for non-hourly employees (see 26 C.F.R. § 54.4980H-1(a)).

⁸ The physical office may be owned or leased, but may not be shared other than with the exempt entity’s affiliates. The term office includes a home office.

⁹ This is excluding gross receipts or sales from sources outside the United States as determined under Federal income tax principles. For an entity that is a part of an affiliated group of corporations that filed a consolidated return, the applicable amount shall be the amount reported on the consolidated report for such group.

¹⁰ For entities that are not wholly owned by an exempt entity that qualifies for the subsidiary exemption, the determination of whether the ownership interests are “controlled” by such an exempt entity will require case-by-case analysis.

¹¹ “Foreign person” means a person who is not a United States person. A United States person is defined in Section 7701(a)(30) of the Code as a citizen or resident of the United States, domestic partnership and corporation, and other estates and trusts.

II. What is Required to be Reported?

If no exemptions apply, reporting companies must file BOI reports to FinCEN disclosing information about (i) the reporting company itself, (ii) its beneficial owners, and (iii) for certain entities, its company applicants.

Reporting Company Information:

A reporting company must disclose the following information about itself:

1. Its full legal name;
2. Any alternate names or names through which it engages in business, regardless if it has registered the name (i.e. “d/b/a”);
3. Its complete and current business address;¹²
 - *If the principal place of business is inside the United States*, the reporting company should provide the street address of that principal place of business; or
 - *If the principal place of business is outside the United States*, the reporting company should provide the street address of the primary location in the United States where the reporting company conducts business.
4. Its jurisdiction of formation, and if it is a foreign reporting company, the State or tribal jurisdiction where it was first registered in the United States; and
5. Its Tax Identification Number (“TIN”).¹³

Beneficial Owner Information:

The CTA defines a “beneficial owner” as any individual who, subject to certain exclusions described below, directly or indirectly, either (i) exercises “substantial control” over a reporting company, or (ii) owns or controls at least 25% of the ownership interest of the company.¹⁴

Substantial Control: A reporting company must report **every** individual who exercises substantial control; there is no limit to the number of individuals who can be reported as exercising substantial control. The Final Rule provides four general criteria to determine whether an individual exercises “substantial control,” including:

1. *A Senior Officer;*

The Final Rule defines “senior officer” as any individual holding the position or exercising the authority of president, chief financial officer, general counsel, chief executive officer, chief operating officer or any other officer, regardless of official title, who performs a similar function.¹⁵

¹² This requirement is not satisfied by reporting a P.O. box or address of a registered agent or third party registered agent service.

¹³ A TIN is needed even if the entity is a disregarded entity for Federal income tax purposes and would otherwise not require a separate TIN. If a foreign reporting company that is registered in the United States is not subject to U.S. corporate income tax, the CTA allows for such reporting companies to provide a foreign tax identification number and the name of the relevant jurisdiction.

¹⁴ Reporting companies are not required to report the reason (i.e. substantial control or ownership interests) that an individual is a beneficial owner. FinCEN expects that every reporting company will be substantially controlled by one or more individuals, and therefore that every reporting company will be able to identify and report at least one beneficial owner.

¹⁵ The title of an officer is not dispositive, but rather the underlying question is whether the individual is exercising the authority or performing the functions of a senior officer, or otherwise has authority indicative of substantial control.

2. *An individual that has authority to appoint or remove certain officers or a majority of directors (or similar body) of the reporting company;*
3. *An individual that directs, determines, or has substantial influence over important decisions made by the reporting company;¹⁶*

This category includes decisions regarding:

- The nature, scope, and attributes of the business of the reporting company, including the sale, lease, mortgage, or other transfer of any principal assets of the reporting company;
- The reorganization, dissolution, or merger of the reporting company;
- Major expenditures or investments, issuances of any equity, incurrence of any significant debt, or approval of the operating budget of the reporting company;
- The selection or termination of business lines or ventures, or geographic focus, of the reporting company;
- Compensation schemes and incentive programs for senior offices;
- The entry into or termination, or the fulfillment or non-fulfillment, of significant contracts; and
- Amendments of any substantial governance documents of the reporting company, including the articles of incorporation or similar formation documents, bylaws, and significant policies or procedures.

4. *An individual that has any other form of substantial control over the reporting company.*

An individual can directly or indirectly exercise substantial control, including through:

1. A trust or similar arrangement;¹⁷
2. Board representation;
3. Ownership or control of a majority of the voting power or voting rights of the reporting company;
4. Rights associated with any financing arrangements or interests in a company;
5. Control over one or more intermediary entities that separately or collectively exercise substantial control over a reporting company;
6. Arrangements of financial or business relationships, whether formal or informal, with other individuals or entities acting as nominees; and
7. Any other contract, arrangement, understanding, relationship or otherwise.

¹⁶ FinCEN has released guidance stating that individuals with an agency relationship with the reporting company who perform ordinary arms-length advisory services, such as a tax professional or lawyer, would not be included in this category even if they are involved in making important decisions for the reporting company.

¹⁷ The following individuals may hold ownership interests in a reporting company: (i) a trustee or other individual with the authority to dispose of trust assets; (ii) a beneficiary who is the sole permissible recipient of trust income and principal or who has the right to demand a distribution of or withdraw substantially all of the trust assets; and (iii) a grantor or settlor who has the right to revoke or otherwise withdraw trust assets.

Ownership Interest: A reporting company must also submit BOI for any individuals that own or control at least 25% of the ownership interest of the reporting company. The Final Rule includes an expansive definition of “ownership interest” to include any equity interest, capital or profits interest, and options. Total percentage ownership interest that is owned or controlled, directly or indirectly, is calculated at the present time, with any of the individual’s options or similar interest being treated as exercised.¹⁸

- If the reporting company issues capital or profits interests (including entities taxed as partnerships), then the individual’s ownership interests are their capital and profits interests in the reporting company as a percentage of the total outstanding capital and profits interests of the reporting company.
- If the reporting company is a corporation (or treated as such for tax purposes), or issues shares of stock, then the applicable percentage is the greater of:
 - the total combined voting power of all classes of ownership interests of the individual as a percentage of the total outstanding voting power of all classes of ownership interests entitled to vote; or
 - the total combined value of the individual’s ownership interests as a percentage of the total outstanding value of all classes of ownership interests.¹⁹

Exclusions from the Definition of Beneficial Owner: The Final Rule explicitly states that “beneficial owners” do not include:

1. A “*minor child*” as defined under the law of the State or Indian tribe in which a domestic reporting company is created or in which a foreign reporting company is first registered (if the minor child exception applies, the reporting company must report BOI about the parent or legal guardian of the minor child instead).²⁰
2. An *agent/nominee/intermediary/custodian* of another individual that merely acts on behalf of an actual beneficial owner.²¹
3. An *employee* of the reporting company whose substantial control over or economic benefits from the company are *only* from their employment (this does not include a senior officer of the company who is also an employee).
4. *Future Inheritor* meaning an individual whose only interest in the entity is a future interest through a right of inheritance.²²
5. A *creditor of the company* who meets the definition of beneficial owner solely through a loan covenant or other similar right associated with their right to repayment.

¹⁸ If the facts and circumstances do not permit the calculations to be made with reasonable certainty, an individual owning or controlling 25% or more of any class or type of ownership interest of a reporting company is deemed to have exceeded the 25% ownership or control threshold (see 31 C.F.R. §1010.380(d)(2)(iii)(D)).

¹⁹ Under this method of determining an indirect ownership percentage, an individual who owns 25% of a holding company that holds a 25% ownership percentage in the reporting company (25% * 25% = 6.25%) is not the reporting company’s beneficial owner, provided the individual does not have substantial control over the reporting company.

²⁰ When a beneficial owner that was a minor child reaches the age of majority, the reporting company must file an updated BOI report, identifying the individual as a beneficial owner and, if warranted, replacing such individual’s parent or legal guardian’s information with the individual’s information.

²¹ FinCEN stated they do “not envision that the performance of ordinary, arms-length advisory or other contractual services to a reporting company would provide an individual with the power to direct, determine, or have substantial influence over, important decisions of a reporting company.”

²² Once an individual has acquired an ownership interest in an entity through inheritance, that individual owns that ownership interest and is potentially subject to the beneficial owner reporting requirements.

A Reporting Company must submit the following information regarding its Beneficial Owners:

1. Their full legal name;²³
2. Their date of birth;
3. Their current residential address;²⁴
4. Their unique identifying number from one of the following non-expired documents issued to the individual:
 - i. a United States passport issued by the United States government;
 - ii. a State, local government, or Indian tribe identification document issued for the purpose of identifying the individual;
 - iii. a State issued driver's license; or
 - iv. if an individual does not have any of the above documents, a passport issued to the individual by a foreign government.
5. An image of the identification document (as described in number 4 above) from which the unique identifying number was obtained.

Company Applicant Information:

Only reporting companies created **on or after** January 1, 2024 will need to provide company applicant information. For reporting companies created before January 1, 2024, such companies will only need to state that they were registered prior to the effective date of the regulations in lieu of providing such company applicant information. An applicable reporting company must report at least one company applicant and at most two company applicants.²⁵

The term “company applicant” means:

- *For a domestic reporting company*, an individual who directly files the document that creates the reporting company.
- *For a foreign reporting company*, the individual who directly files the document that first registers the foreign reporting company in the United States.
- *For both domestic or foreign reporting companies*, the individual who is primarily responsible for directing or controlling such filing if more than one individual is involved in filing the document.

A reporting company must submit the following information regarding its Company Applicant(s):

1. Their full legal name;

²³ If one or more exempt entities have a direct or indirect ownership interest in a reporting company and an individual is a beneficial owner of the reporting company *exclusively* by virtue of the individual's ownership interest in the exempt entity or entities, the reporting company may (but is not required to) elect to list the name of the exempt entity or entities rather than any information regarding the individual beneficial owner on its BOI report.

²⁴ The reported address cannot be a P.O. box. Although FinCEN noted they recognize the importance of address confidentiality programs and will consider appropriate guidance to address those situations, there are currently no exceptions to the address reporting requirement. If a unique circumstance arises that presents a challenge to this reporting requirement, FinCEN will consider those circumstances on a case-by-case basis.

²⁵ Companies or legal entities cannot be company applicants (i.e., a registered agent); rather a company applicant must be an individual. State filing offices and employees who process formation documents in the ordinary course of their State employment are not considered a company applicant. Similarly, employees of business formation services solely providing software, online tools, or generally applicable written guidance are not company applicants.

2. Their date of birth;
3. Their current residential address; provided, however, if the company applicant formed or registered the company in the course of their employment, then the business street address must be used;²⁶
4. Their unique identifying number from one of the following non-expired documents issued to the individual:
 - i. a United States passport issued by the United States government;
 - ii. a State, local government, or Indian tribe identification document issued for the purpose of identifying the individual;
 - iii. a State issued driver's license; or
 - iv. if an individual does not have any of the above documents, a passport issued to the individual by a foreign government.
5. An image of the identification document (as described in number 4 above) from which the unique identifying number was obtained.

III. When and How to Report BOI?

Initial Reports: The CTA imposes different filing deadlines depending on when the reporting company was created or first registered to do business in the United States.

- For companies created, or first registered to do business in the United States, before January 1, 2024, such reporting companies have until January 1, 2025 to file their initial BOI report.
- For companies created, or first registered to do business in the United States, on or after January 1, 2024, and before January 1, 2025, such reporting companies must file their initial BOI report 90 days after creation or registration.²⁷
- For companies created, or first registered to do business in the United States, on or after January 1, 2025, such reporting companies must file their initial BOI report 30 days after creation or registration.

Updating Reports: As well as submitting the initial report mentioned above, reporting companies must continually update their BOI reports to reflect changes in beneficial ownership, changes in exemption status, or other previously reported inaccuracies.

1. *Updating Prior Reports* - if there are any changes concerning the reporting company or its beneficial owners with reference to BOI previously submitted to FinCEN, the reporting company must file an updated report within 30 calendar days of when the change occurs.²⁸

²⁶ See footnote 24.

²⁷ An entity is deemed created when the entity receives actual notice that its creation has become effective or when a secretary of state or similar office first provides public notice that the entity has been created, such as through a publically accessible registry.

²⁸ Some examples of changes requiring an updated report include, but are not limited to (i) a change in beneficial owners, such as a new Chief Executive Officer, (ii) the death of a beneficial owner, (iii) any change to a beneficial owner's name, address, or unique identifying number, (iv) when a beneficial owner that was a minor child reaches the age of a majority, (v) any other action that causes change in who meets the ownership interest threshold of 25%.

2. *Correcting Prior Reports* - if the reporting company identifies any inaccuracy in a BOI report, the reporting company must submit an updated report within 30 calendar days after the date on which it becomes aware or has reason to know of the inaccuracy.
3. *Changing Exemption Status* - if the reporting company files a BOI report and later qualifies for an exemption, the reporting company must file a new report within 30 calendar days of becoming exempt stating that the company is no longer a reporting company. Conversely, if a reporting company does not file a report because it was exempt, but no longer qualifies for an exemption, the reporting company must file a BOI report within 30 calendar days from the date in which it no longer qualifies.

Reporting System: FinCEN will not accept BOI reports until the CTA becomes effective on January 1, 2024. The BOI report form will be filed electronically through a secure filing system called the Beneficial Ownership Secure System or “BOSS.” FinCEN intends to publish instructions and other technical guidance on how to complete the BOI report form prior to January 1, 2024. This guidance will be available [here](#).

FinCEN Identifier: A “FinCEN identifier” is a unique identifying number that FinCEN can issue to an individual or reporting company upon request.²⁹ Individuals may electronically apply for FinCEN identifiers by providing their name, date of birth, address, unique identifying number and issuing jurisdiction from an acceptable identification document, and an image of the identification document.³⁰ Once a beneficial owner or company applicant has obtained a FinCEN identifier, the reporting company may report the FinCEN identifier in place of the otherwise required personal information about the individual in the reporting company’s BOI reports. Under the final rule published November 8, 2023, FinCEN provides that a reporting company may report another entity’s FinCEN identifier and full legal name in lieu of the otherwise necessary BOI only if:

1. the other entity has obtained a FinCEN identifier and provided that FinCEN identifier to the reporting company;
2. the individual (whose information would otherwise be reported) is or may be a beneficial owner of the reporting company by virtue of an interest in the reporting company that the individual holds through an ownership interest in the other entity; and
3. the beneficial owner of the other entity and of the reporting company are the same individual.³¹

Certification Requirements: In addition to the above reporting requirements, each reporting company must also certify that its report is true, correct, and complete. FinCEN has stated that the responsibility to identify its beneficial owners and company applicants is on the reporting company, and a reporting company has the obligation to do so truthfully and accurately.

IV. What are the Penalties for Noncompliance?

The CTA provides for civil and criminal penalties for both reporting violations and unauthorized disclosure or use of the BOI.

²⁹ FinCEN will begin issuing FinCEN identifiers on January 1, 2024 for individuals. Reporting Companies may request one after filing their initial report.

³⁰ If there are any changes to the information provided to FinCEN by a beneficial owner, company applicant, or an entity to receive a FinCEN identifier, the individual or entity must report the change to FinCEN.

³¹ If at any time the beneficial owners of either the reporting company or the other entity changes such that the two are no longer identical, then the reporting company must file an update with FinCEN and can no longer report the other entity’s FinCEN identifier.

Reporting violations: It is unlawful to (i) provide or attempt to provide a false or fraudulent BOI; or (ii) fail to complete or update BOI reports.

Unauthorized disclosure or use: It is unlawful for any person to knowingly disclose or use BOI obtained by a person through a report submitted to FinCEN or disclosures made by FinCEN.³²

Penalties Under the CTA:

Any person that commits a reporting violation is subject to a civil penalty of up to \$500 a day for each day the violation continues and criminal penalties of fines up to \$10,000, imprisonment for up to two years, or both. Any person that unlawfully discloses BOI information is subject to a civil penalty of up to \$500 a day for each day the violation continues up to \$250,000, imprisonment for up to five years, or both.

Safe Harbor Provisions Under the CTA:

The CTA provides for a safe harbor provision from civil or criminal penalties for a reporting company that has reason to believe it submitted BOI with inaccuracies and voluntarily submits a report correcting the information within 90 days of the deadline of the original report. However, the safe harbor provision does not apply if the incorrect information was submitted with actual knowledge that the information was false or to reports corrected more than 90 days after they are filed even if a reporting company files a correction promptly after becoming aware that a correction is necessary.

³² In certain circumstances, FinCEN is authorized to share BOI with government agencies, financial institutions, and financial regulators, subject to appropriate protocols.