



**Maddi Hauser**  
Attorneys and Counselors

# **BRIEF CORPORATE TRANSPARENCY ACT OVERVIEW – PREPARING AND FILING A BENEFICIAL OWNERSHIP INFORMATION REPORT**

David H. Freedman, Esq. and Jordan M. Small, Esq.

**Maddin, Hauser, Roth & Heller, P.C.**

28400 Northwestern Hwy. Southfield, MI 48034

p (248) 354-4030 f (248) 354-1422 [maddinhauser.com](http://maddinhauser.com)



# OVERVIEW

- CTA Litigation Update
- CTA and Reporting Deadlines: A Refresher
- BOI Report: Preparing and Filing
- FinCEN ID – What is it and how do I get one?
- Continuing reporting obligations



# LITIGATION UPDATE

# NATIONAL SMALL BUSINESS ASSOCIATION V. YELLEN

- **March 1, 2024 ruling** in favor of the National Small Business Association, holding the CTA unconstitutional “because it cannot be justified as an exercise of Congress’ enumerated powers.”
- Ruling does not immediately invalidate the CTA, but the **government may not enforce the CTA against the Plaintiffs**
- Government will likely appeal decision to 11th Circuit Court of Appeals

What does this mean  
right now for owners  
of Non-Exempt  
Reporting  
Companies?



# **CTA AND REPORTING DEADLINES: A REFRESHER**

# CTA REPORTING DEADLINES

- **Existing domestic or foreign Reporting Companies formed before January 1, 2024: On or before January 1, 2025** (one year after the effective date of the CTA).
- **New domestic or foreign Reporting Companies formed during calendar year 2024: Within 90 days after its date of formation** (i.e., the filing date of its Articles or Certificate).
- **New domestic or foreign Reporting Companies formed on or after January 1, 2025: Within 30 days after its date of formation** (i.e., the filing date of its Articles or Certificate).

## STEP 1- AM I REQUIRED TO FILE?

Is my business a *Reporting Company* that is required to file a beneficial ownership information report under the CTA?



## STEP 1 - REPORTING COMPANIES – A REFRESHER

- ***Reporting Company*** is any entity that was formed at the state level
- ***Not applicable to*** sole proprietorships, general partnerships, unincorporated associations, most trusts (a trust may be a beneficial owner)

## STEP 2 - EXEMPTIONS – A REFRESHER

- ***Non-exempt reporting companies*** are required to file BOI reports
- Commonly used exemptions: **large operating company, inactive entity and tax-exempt entity** (23 total exemptions - most already regulated entities)
- If a Reporting Company and no exemption available, ***BOI Report required***

# LARGE OPERATING COMPANY EXEMPTION

In order to qualify for the Large Operating Company exemption, the entity must:

- employ more than 20 full time employees in the United States;
- have an operating presence at a physical office within the United States; and
- have filed a Federal income tax or information return in the United States for the previous year demonstrating more than \$5,000,000 in gross receipts or sales.

# INACTIVE ENTITY EXEMPTION

An inactive entity exempt from reporting under the Act is any entity that:

- was in existence on or before January 1, 2020;
- is not engaged in active business;
- is not owned by a foreign person, whether directly or indirectly, wholly or partially;
- has not experienced any change in ownership in the preceding twelve month period;
- has 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
- does 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.

# PREPARING AND FILING A BOI REPORT

## STEP 3- WHO ARE MY BENEFICIAL OWNERS?

Who are the beneficial owners that are required to be included in my BOI report?

## STEP 3 - BENEFICIAL OWNERSHIP – A REFRESHER

A beneficial owner is any individual who, directly or indirectly, either:

- 1) exercises substantial control over a Reporting Company, or
- 2) owns or controls at least 25 percent of the ownership interests of a Reporting Company.

# STEP 3 - BENEFICIAL OWNERSHIP – A REFRESHER

- **Substantial Control**: An individual exercises substantial control over a Reporting Company if the individual meets **any** of four general criteria: (1) the individual is a senior officer; (2) the individual has authority to appoint or remove certain officers or a majority of directors of the Reporting Company; (3) the individual is an important decision-maker; **or** (4) the individual has any other form of substantial control over the Reporting Company.
- The term “senior officer” means an individual holding the position or exercising the authority of a president, chief financial officer, general counsel, chief executive officer, or chief operating officer, **or any other office, regardless of official title, who performs a similar function**
- In the context of **LLC’s**, the term “substantial control” will also apply to managers, managing members or a board of managers.



## STEP 3 - BENEFICIAL OWNERSHIP

- Complicating factors:
  - What if a trust, other than a revocable living trust, is a beneficial owner?
  - What if more than 25% of the Reporting Company's ownership is held by another company?
  - What if some of the ownership in the Reporting Company is held indirectly?

## STEP 4- WHAT INFORMATION DO I NEED?

Now that I have identified my beneficial owners, what information is needed for filing?

## STEP 4 - BOI REPORT INFORMATION – A REFRESHER

In order to file a BOI report, for each Reporting Company, Maddin Hauser will need:

- a) full legal name;
- b) Any trade name or DBA (even if unregistered);
- c) Complete current U.S. address (principal place of business – No P.O. Box);
- d) State of formation; and
- e) IRS Taxpayer or Identification Number (TIN) (including an Employer Identification Number (EIN)). Can use SSN if disregarded entity and no TIN or EIN.

## STEP 4 - BOI REPORT INFORMATION – A REFRESHER

In order to file a BOI report, for each Beneficial Owner, Maddin Hauser will need:

- a) full legal name;
- b) date of birth;
- c) a current residential address (Company Applicant can use business address);
- d) unique ID number from a non-expired U.S. passport, state driver's license or other state or local government issued photo ID; and
- e) image of the document showing the unique ID number

## STEP 4 - BOI REPORT INFORMATION – A REFRESHER

- Who in my organization is responsible for collecting this information?
- What if I can't locate a beneficial owner?
- What if one of my beneficial owners refuses to provide this information?

## STEP 5- HOW DOES THE FILING PROCESS WORK?

I have gathered all of the Beneficial Ownership Information, how do I work with Maddin Hauser to file the BOI report?

## STEP 5- HOW DOES THE FILING PROCESS WORK?

- Maddin Hauser will complete a fillable PDF form provided by FinCEN based on the BOIR information provided to us
- Alternatively, you may complete the form for our review

## STEP 5- HOW DOES THE FILING PROCESS WORK?

- Maddin Hauser will ask you to verify the accuracy of the BOI information once the PDF form is completed.
- Once we have received your verification, Maddin Hauser will file the BOIR with FinCEN
- FinCEN does not charge a filing fee



## STEP 5- HOW DOES THE FILING PROCESS WORK?

Once the BOIR is filed, we will provide you with the filing transcript for your completed report

# STEP 5- HOW DOES THE FILING PROCESS WORK?



**FINANCIAL CRIMES  
ENFORCEMENT NETWORK**

Generated: 2/29/2024

**FILING SUCCESSFUL - Beneficial Ownership Information Report (BOIR) Status**

Submission Information	
Status	FILING SUCCESSFUL
BOIR ID	[REDACTED]
Submission Tracking ID	[REDACTED]
Received Timestamp (UTC)	[REDACTED]
Reporting Company FinCEN ID	[REDACTED]

Submitter Information	
First name	[REDACTED]
Last name	[REDACTED]
E-mail address	[REDACTED]

Validation Information	
Code	Description
No validation errors	

# **FINCEN IDENTIFIERS**

# HOW CAN I MAKE FILING EASIER?

What is a FinCEN identifier and how can it make filing easier?

# FINCEN IDENTIFIERS

- A “FinCEN identifier” is a unique identifying number that FinCEN will issue to an individual or reporting company upon request after the individual or reporting company provides its BOI information to FinCEN.
- A Reporting Company can include FinCEN identifiers in its BOI report instead of the required information about beneficial owners or company applicants to streamline the filing

## FINCEN IDENTIFIERS (CON'T)

Maddin Hauser can assist with obtaining a FinCEN Identifier as part of the filing process

## FINCEN IDENTIFIERS (CON'T)

To apply for a FinCEN ID, we will need the same information and images referred to on slides 19 and 20.

## FINCEN IDENTIFIERS (CON'T)

After requesting and receiving a FinCEN ID, Maddin Hauser can instruct you on how you can access the underlying personal information, and make updates and corrections as necessary.



## FINCEN IDENTIFIERS (CON'T)

- A Reporting Company can opt in to receive a FinCEN identifier when it submits a BOI report.
- Once a beneficial owner or company applicant has obtained a FinCEN identifier, it can be used in BOI reports in lieu of having to input the information referred to on slides 19 and 20.
- Prudent practice is to require all Beneficial Owners to have a FinCEN identifier

# UPDATES TO BOIR

# UPDATES TO BOIR

I completed my entity's filing,  
do I have any continuing  
obligations?

# UPDATES TO BOIR

- **YES**, if there is **any change** to the required information about your company or its beneficial owners in a BOI report that has been filed, your company must file an updated report **no later than 30 days after the date of the change**

# UPDATES TO BOIR

- What is considered a change that requires filing an updated report?
  - Adding new beneficial owners
  - Deleting individuals that no longer fit the definition of beneficial owners
  - Address changes (reporting company and/or beneficial owners)
  - Adding or removing assumed names
  - Updating expiration information on driver's license or passport

# UPDATES TO BOIR

- If your Reporting Company did not initially have to file a BOI report due to an exemption, but that **exemption no longer applies and there is no other applicable exemption**, that is considered a change and will require a BOI report to be filed within **30 days** of the loss of the exemption.
- Conversely, if your reporting company filed a BOI report and is **now eligible for an exemption from filing**, that is considered a change and will require a BOI report to be filed within **30 days** of obtaining the exemption indicating that the reporting company is now exempt from filing.



**Maddi Hauser**  
Attorneys and Counselors

**THANK YOU**



**Jordan M. Small, Esq.**

Associate

(248) 351-7001

(248) 925-6068 Cell

[jsmall@maddinhauser.com](mailto:jsmall@maddinhauser.com)



**David H. Freedman, Esq.**

Shareholder

(248) 351-7011

(248) 763-7161 Cell

[dfreedman@maddinhauser.com](mailto:dfreedman@maddinhauser.com)

**Maddin, Hauser, Roth & Heller, P.C.**

28400 Northwestern Hwy. Southfield, MI 48034

p (248) 354-4030 f (248) 354-1422 [maddinhauser.com](http://maddinhauser.com)

