



FinCEN BOI Reporting: Key Updates and FAQs for Compliance

Description

Special Note: We are providing this information because it pertains to every one of our clients. While we hope that we see a regime change in this next election and that this BOI requirement gets shut-down, you need to be prepared to comply in the meantime.

There are several potential lawsuits aiming to delay or eliminatethis requirement, so stay tuned to your preferred news sources for any updates on this matter.

The Financial Crimes Enforcement Network (FinCEN) has recently updated its Frequently Asked Questions (FAQs) concerning Beneficial Ownership Information (BOI) reporting. These updates clarify key elements of the reporting process and address common concerns raised by businesses and legal professionals. This blog post will guide you through the key aspects of BOI reporting, breaking down the updated FAQs and answering some frequently asked questions.

What is Beneficial Ownership Information (BOI)?

BOI refers to details about individuals who directly or indirectly own or control at least 25% of a company, or who exercise substantial control over the company. The purpose of collecting this information is to prevent illegal activities like money laundering, terrorism financing, and other financial crimes by ensuring transparency in ownership.

Key Areas of FinCEN's BOI FAQ Updates

1. General Questions: Access to BOI

FinCEN's FAQ clarifies that access to BOI is restricted to authorized parties, such as law enforcement and regulators, to safeguard the privacy and confidentiality of the information provided. These controls ensure that sensitive personal data is only accessed for appropriate investigative purposes.

- **FAQ A3 & A6:** *Who can access BOI?* Only authorized agencies have access, and individuals or

entities submitting the information do not have automatic access to BOI data after submission.

2. The Reporting Process

The reporting process outlines who can file a BOI report and how to handle multiple beneficial owners and company applicants.

- **FAQ B7 & B8:** *Who can file a BOI report?* Authorized filers such as company officers, directors, or third-party agents can submit a BOI report. Additionally, lawyers can file on behalf of their clients, but individuals who are not licensed to practice law may not file BOI reports to avoid the unauthorized practice of law.
- **FAQ B9 & B10:** *How should multiple beneficial owners or applicants be reported?* If there are multiple beneficial owners, each one must be reported individually with their ownership or control information.

3. Reporting Company Specifics

- **FAQ C17:** *What are considered “similar offices”?* In terms of beneficial ownership reporting, FinCEN defines “similar offices” broadly to include any position with authority or substantial control over company operations.
- **FAQ C18 & C19:** *How does corporate conversion and registration in multiple states affect BOI reporting?* If a company converts to another form (e.g., from a corporation to an LLC), this may trigger a new reporting requirement. Additionally, if a company is registered in multiple states, it must comply with BOI requirements in each jurisdiction where it is actively operating.

4. Beneficial Owner Definitions

There may be instances where no one meets the ownership threshold, or the company operates in a community property state.

- **FAQ D1i & D1ii:** *How many beneficial owners does a company need to report?* If no individuals meet the ownership threshold, the company must still report individuals who exercise substantial control.
- **FAQ D18:** *How is community property handled?* In states with community property laws, the ownership stakes of spouses are handled carefully, often requiring both to be reported.

5. Reporting Requirements

Various details must be provided when submitting a BOI report, including acceptable forms of identification and address requirements.

- **FAQ F5i, F5ii, F15:** *What identification documents are acceptable?* Government-issued IDs, including passports and driver’s licenses, are valid for BOI reporting.
- **FAQ F12 & F14:** *What if the company operates from a personal residence?* If a company’s registered address is also a personal residence, the company may still need to list this as the address in the report. Additionally, some states have Address Confidentiality Programs (ACP) to protect personal information.

6. Reporting Company Exemptions

Some companies may be exempt from reporting requirements, especially if they are subsidiaries or are operating in certain regulatory environments.

- **FAQ L3i, L6 & L10:** *Which companies are exempt from BOI reporting?* Subsidiaries of companies already complying with BOI regulations may qualify for exemptions. Companies regulated under certain federal programs (e.g., those issuing public securities) may also qualify.
- **FAQ L11:** *What about companies operating from personal residences?* Even if a company operates out of a personal residence, it must report its address unless it qualifies for exemptions.

7. FinCEN Identifiers

A FinCEN identifier is a unique ID that can be used by individuals or companies when submitting BOI reports.

- **FAQ M2 & M5i:** *How is a FinCEN Identifier used?* Once issued, the FinCEN Identifier can be used to file reports instead of repeatedly submitting the same personal information. The identifier must be kept up to date by the entity or person it's assigned to.

8. Third-Party Service Providers

- **FAQ N4:** *Can third-party service providers help with BOI filings?* Yes, third-party service providers can assist businesses in meeting their BOI filing obligations. However, they must comply with all relevant regulations and ensure data is submitted accurately.

FAQs on BOI Reporting

Q: Who needs to submit BOI reports?

A: Most corporations, LLCs, and similar entities must submit BOI reports unless exempt under FinCEN regulations.

Q: Can I report more than one beneficial owner?

A: Yes, if your company has multiple beneficial owners, you are required to report each one.

Q: What happens if no one meets the beneficial owner threshold?

A: You still need to report individuals with substantial control over the company.

Q: Can a lawyer file my BOI report?

A: Yes, licensed attorneys can file BOI reports on behalf of their clients. However, non-attorneys are prohibited from doing so to avoid unauthorized legal practices.

Q: What identification is required?

A: Acceptable IDs include government-issued IDs like passports and driver's licenses.

Q: What if I operate my business from home?

A: You must still list your home address unless you qualify for an exemption or are part of an Address Confidentiality Program.

Conclusion

FinCEN's updated FAQs on Beneficial Ownership Information (BOI) reporting help clarify several critical aspects of the reporting process. Businesses and legal professionals must stay informed about these requirements to ensure compliance and avoid penalties. For more detailed guidance, you can refer to the official FinCEN website or consult a legal advisor.

Sources:

- [FinCEN BOI Information](#)
- [FinCEN BOI FAQs](#)

Related Articles:

- [What is Beneficial Ownership Information? Understanding Its Role and Importance](#)
- [FinCEN Beneficial Reporting Update](#)

Category

1. Commercial Loans

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