

Insights

GONE BUT NOT FORGOTTEN: NEW FINCEN GUIDANCE ON CTA REPORTING REQUIREMENTS FOR COMPANIES THAT CEASE TO EXIST

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SUMMARY

FinCEN clarifies that entities that are dissolved in 2024, or merge into other entities in 2024, do still have beneficial ownership information filing requirements if not exempt.

On July 8, 2024, the Financial Crimes Enforcement Network (FinCEN) published an updated set of [Frequently Asked Questions \(FAQs\)](#) pertaining to the Beneficial Ownership Information (BOI) Reporting Rule under the U.S. Corporate Transparency Act (CTA). This update to the FAQs further clarifies reporting requirements with respect to entities that have ceased to exist.^[1]

Under the CTA, certain companies are required to report their beneficial ownership information to FinCEN. However, a company that ceased to exist as a legal entity before January 1, 2024, is not subject to these reporting requirements. To qualify, the company must have formally and irrevocably dissolved by completing all necessary steps such as filing dissolution paperwork, receiving confirmation of dissolution, paying related taxes or fees, ceasing business operations, and fully winding up its affairs. FinCEN specified, however, that if a company continued to exist as a legal entity on or after January 1, 2024, it must report its beneficial ownership information to FinCEN (unless exempt from reporting requirements), even if it had wound up its affairs and ceased conducting business prior to this date.

Similarly, companies created or registered on or after January 1, 2024, that subsequently cease to exist must report their beneficial ownership information to FinCEN (unless exempt from reporting requirements) within 90 days of receiving notice of creation or registration, regardless of their operational status before the BOI report due date. For those companies created or registered in 2025 or later, the timeframe is within 30 days. These obligations remain applicable to reporting companies that cease to exist as legal entities before their initial beneficial ownership reports are due (e.g., entities that are merged out of existence). However, once an initial BOI report is filed, no further reporting is needed to indicate that the company has ceased to exist.

To determine when a company ceases to exist as a legal entity, the company should consult the laws of the jurisdiction where the company was formed or registered. Note that generally administrative dissolution or suspension, such as for non-payment of fees, does not equate to permanent cessation unless it becomes irrevocable.

The updated FAQs answer the open question as to whether a BOI report is required for entities that no longer exist by the filing BOI report deadline. This would include entities that are merged with other entities (a common structure for an M&A transaction) any time on or after January 1, 2024. It would also include entities that existed in 2024 and are dissolved prior to the deadline for the initial filing. As a practical matter, companies should consider whether to obtain an employer identification number for merger subsidiaries or entities that will be dissolved in order to make the BOI filing if the entity is not exempt, and to also include the BOI analysis and filing process in dissolution checklists.

For purposes of illustrating how the new BOI FAQ clarification works, below are a few examples:

Scenario (for an entity that otherwise meets the reporting company requirements)	BOI Report filing obligation?
Formed March 5, 2018, and fully and completely dissolved on December 30, 2023	No
Formed December 5, 2023, and merged with and into another entity on December 30, 2023	No
Formed March 5, 2018, and dissolved January 2, 2024	Yes
Formed January 2, 2024, and dissolved January 5, 2024	Yes
Formed December 31, 2023, and merged with and into another entity on January 3, 2024	Yes
Formed March 31, 2024, and merged with and into another entity on April 1, 2024	Yes

These clarifications were issued by FinCEN on July 8, 2024, and they underscore the importance of compliance for all entities to avoid significant penalties. Entities should ensure they complete the required reporting in a timely manner to remain in good standing under the CTA.

For advice regarding your obligations under the CTA, please contact your BCLP relationship lawyer or a member of BCLP's CTA team through key contacts identified on the firm's [CTA resource page](#). Please note that BCLP does not provide advice as to the application of the CTA to an entity unless we have been expressly engaged to provide such advice.

[1] FinCEN BOI FAQs, C.12 – C.14.

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