

Bipartisan Bill Seeks to Delay FinCEN's Beneficial Ownership Reporting Requirements

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On August 1, a bipartisan bill was introduced to modify the Corporate Transparency Act (CTA).¹ The Protect Small Businesses and Prevent Illicit Financial Activity Act (H.R. 5119)² was introduced in the U.S. House of Representatives by Zachary Nunn, R-Iowa, and Joyce Beatty, D-Ohio, the senior Democrat on the House Financial Services Subcommittee on National Security, Illicit Finance and International Financial Institutions. H.R. 5119 proposes to give Reporting Companies³ an additional year to provide beneficial ownership information (BOI) to FinCEN pursuant to the CTA.

While this is not the first attempt to delay the filing of BOI on the Beneficial Ownership Secure System (BOSS),⁴ this is the first bill introduced that has bipartisan support. Previous similar bills have proposed to extend BOI filing deadlines indefinitely to give FinCEN time to issue additional guidance for small businesses on how to report BOI. However, the sponsors of H.R. 5119 believe the current proposal will give small businesses sufficient time and information to comply with the CTA's requirements.

Under the CTA, entities that are incorporated or registered to do business in a U.S. state or tribal jurisdiction will be required to file BOI on BOSS, which is scheduled to launch January 1, 2024 (the Effective Date). As of now, Reporting Companies created after the Effective Date have 30 days to report from the day of formation, and the deadline for existing businesses to report is January 1, 2025. H.R. 5119, if passed, would extend the deadline to 60 days for entities

formed after the Effective Date and extend the filing deadline for entities created prior to the Effective Date by an additional year (i.e., January 1, 2026).

In addition, H.R. 5119 proposes to strengthen disclosure rules by barring FinCEN from giving Reporting Companies the option of responding "unknown" or "unable to identify" to BOI reporting questions. This would close a loophole that critics of the CTA have identified as a way for criminals to avoid the CTA's reporting requirements and thereby undermine the CTA's underlying intent.

We encourage our clients, in particular those with a large number of legal entities in their structures, to continue analyzing each legal entity and collecting BOI for eventual reporting, regardless of reporting deadline and/or ability to claim an exemption. To facilitate your review, please see **our prior Client Alert** on preparing your company for FinCEN's BOI reporting requirements, and feel free to contact one of the listed authors of this Client Alert if you require assistance with your analysis or reporting.

¹ 31 C.F.R. § 1010.380.

² See "H.R. 5119 - To amend title 31, United States Code, to provide small businesses with additional time to file beneficial ownership information, and for other purposes," available at: <https://www.congress.gov/bill/118th-congress/house-bill/5119?s=2&r=64>.

³ As defined in 31 C.F.R. § 1010.380.

⁴ See "McHenry Introduces Legislation to Bring Transparency and Accountability to FinCEN, Protect Small Business Data," available at: <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=408863>.

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