



Derek B. Williams, *Chairman*
Lucas White, *Chairman-Elect*
Jack E. Hopkins, *Vice Chairman*
Sarah Getzlaff, *Treasurer*
James H. Sills, III, *Secretary*
Brad M. Bolton, *Immediate Past Chairman*
Rebecca Romero Rainey, *President and CEO*

October 30, 2023

Via Electronic Mail

Policy Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

RE: Docket Number FINCEN–2023–0014 and OMB control number 1506–0076; Beneficial Ownership Information Reporting Deadline Extension for Reporting Companies Created or Registered in 2024

Dear Sir or Madam:

The Independent Community Bankers of America (“ICBA”)¹ welcomes the opportunity to respond to the Financial Crimes Enforcement Network’s (“FinCEN’s”) notice of proposed rulemaking (“NPRM”) to amend the beneficial ownership information (“BOI”) reporting rule (“Reporting Rule”).² FinCEN proposes to extend the filing deadline to report BOI for entities (or reporting companies) created or registered on or after of January 1, 2024, from 30 days to 90 days.³ Entities created or registered on or after January 1, 2025, would have 30 days to file their BOI reports, as required under the Reporting Rule.

ICBA applauds FinCEN for this proposal. But, at the same time, we strongly urge the agency to extend the 90-day reporting deadline to all new reporting companies created or registered in 2025. FinCEN contends that its goal to extend the reporting deadline for entities created in 2024 is to give them “additional time to understand the new reporting obligation and collect the

¹*The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services.*

With nearly 50,000 locations nationwide, community banks employ nearly 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding \$5.8 trillion in assets, \$4.8 trillion in deposits, and \$3.8 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.

² Beneficial Ownership Information Reporting Requirements, 87 FR 59498 (Sept. 30, 2022)

³ <https://www.federalregister.gov/documents/2023/09/28/2023-21226/beneficial-ownership-information-reporting-deadline-extension-for-reporting-companies-created-or-registered-in-2024>; 88 Fed. Reg. at 66730

The Nation's Voice for Community Banks.®

WASHINGTON, DC
1615 L Street NW
Suite 900
Washington, DC 20036

SAUK CENTRE, MN
518 Lincoln Road
P.O. Box 267
Sauk Centre, MN 56378

866-843-4222
www.icba.org

necessary information to complete the filing.”⁴ This goal assumes that entities created after 2024 will understand their reporting requirements and that they will automatically collect the necessary filing information. The first few months of most new businesses are focused on getting up and running which includes procuring appropriate documents through various state agencies, hiring, training, and setting up payroll for employees, procuring business equipment, and generally getting established. The first 30 days of a new business, sadly, can determine whether that business survives. The added requirement of filing a BOI, with an agency of which most small businesses have never heard, during this same timeframe is an added burden, and one that could lead to mistakes while the focus is rightfully placed on setting up the business. ICBA believes that all new entities should be granted the same leeway to successfully comply and that 90 days to report should apply to all new entities regardless of when they were created or registered.

ICBA is fully aware of the added burden that reporting BOI will have on reporting companies – a burden also felt by community banks. We discussed this burden in our response to FinCEN’s proposed⁵ deadline, noting that it did not heed the Regulatory Flexibility Act (“RFA”),⁶ which mandates federal agencies to consider the challenges of small businesses. The 30-day filing period provided in the final rule does not take into account the many challenges with complying. Entities will need time to conduct appropriate due diligence to determine the company applicant and beneficial owners, to collect the required information from the beneficial owners and company applicants, and to provide the required information about the company, its beneficial owners, and its company applicants to FinCEN. These challenges are compounded by potential of penalties⁷ that may result from mistakes or presumptions that a reporting company willfully submitted inaccurate or false BOI. While some companies will be able to afford consulting with accountants, lawyers, and other similarly situated professionals on the rule’s requirements and how to avoid potential regulatory and legal land mines, many will not have the luxury of such consultations.

The shorter timeframe also assumes that each state would require the exact same items required by FinCEN; assumes each state has rules and infrastructure to accommodate FinCEN’s expectations; assumes that each reporting entity, especially new and small reporting entities, would be properly trained on the agency’s requirements; and assumes that each state requires entities to register their business. These assumptions are not just germane to entities formed in 2024 but any new entity, regardless of when they are created or registered.

4 88 Fed. Reg. at 66730

⁵ICBA’s response to Docket Number FINCEN-2021-0005 and RIN 1506-AB49 - Beneficial Ownership Information Reporting Requirements, February 7, 2022.

⁶ 5 U.S.C. §§601-612

⁷ CTA § 6403(h)(3)

Not only would a permanent 90-day reporting deadline enable entities to submit thorough and accurate BOI to FinCEN but could result in the creation of a highly useful database; could help community banks trust that the BOI submitted is reliable for due diligence purposes; and could help an already resource strained agency manage the database.

The challenges of being a small business and their crucial role to the U.S. economy warrants a more delicate approach to filing requirements. A permanent 90-day reporting deadline for all new entities demonstrates an appreciation for their existence, fulfills the RFA, and sets them up to successfully comply with this new Reporting Rule. As such, ICBA strongly urges FinCEN to act accordingly.

We appreciate the opportunity to provide comments in response to this request. If you have any questions, please do not hesitate to contact me at Rhonda.Thomas-Whitley@icba.org or (202) 659-8111.

Sincerely,

/s/

Rhonda Thomas-Whitley
Senior Vice President, Senior Regulatory Counsel