**Background on the issue**

The Beneficial Ownership Information (BOI) reporting requirement is an anti-money laundering initiative enacted through the Corporate Transparency Act in 2021. The Financial Crimes Enforcement Network (FinCEN – pronounced “fin-sen”) is a division of the U.S. Treasury Department which will begin requiring small businesses including small CPA firms to report information on the “owner” of an entity beginning in 2024. Existing small businesses, formed before December 31, 2023, have one year to file – the filing deadline for these small businesses is January 1, 2025.  Small businesses formed starting January 2024 or those that have a change in owner information throughout the year have 30 days to file.  For more information see the AICPA’s resource landing page by visiting this link: [AICPA BOI Resource Page](https://www.aicpa-cima.com/resources/landing/beneficial-ownership-information-boi-reporting).  On the resource page, you will find many additional resources including AICPA’s FAQ sheet for firm practitioners which you can also access directly at this link: [AICPA BOI FAQ Highlights](https://www.aicpa-cima.com/resources/download/beneficial-ownership-information-boi-faq-highlights)

Two bills have been introduced in U.S. Congress to delay this rule – H.R. 4035 and S. 2623, both titled the *Protecting Small Business Information Act of 2023*.  These identical bills introduced in the U.S. House by Representative Patrick McHenry and introduced in the U.S. Senate by Senator Mike Rounds would delay the start date of the rule providing additional time for small businesses to learn about and better understand their new reporting requirements. We want to obtain as many cosponsors in both the U.S. House and U.S. Senate as possible, to keep these bills moving. ***We are asking you to reach out to your House of Representatives Member to ask them to cosponsor H.R. 4035, and to also reach out to your two United States Senators to ask them to cosponsor S. 2623.***

**How to contact your U.S. Senators and Representatives**

* You can find your House of Representatives Member at <https://www.house.gov/>
* You can find your two U.S. Senators at: <https://www.senate.gov/senators/senators-contact.htm>

**Two ways to reach out to Congress – phone call or email**

The two easiest ways to get your message to your Members of Congress is either via a phone call or through their website messaging system.  See instructions below and sample information **you can edit to fit your personal experience and any expected challenges or concerns you have with these new small business reporting requirements**.  Please note “Member of Congress” refers to either Senators or Representatives.

**For a phone call with Congressional staff or the Member**

1. From your Member of Congress’ website, call the ***Washington, D.C.*** office to speak to the **“legislative staff member”** responsible for **“financial services issues.”** If the staff person is not available you can leave a message on the staff person’s voicemail or ask for a call back.
2. Identify yourself as a CPA and as a voting constituent of the Representative or Senator.  You may be asked to share your email or street address so they can respond to you via a letter or email.
3. Tell the staff person that you are calling to discuss your concerns with the FinCEN (pronounced *fin-sen*) Beneficial Ownership Reporting Requirements.

*NOTE:* You can use as many or as few of the talking points below as you are comfortable with using.  Also, please feel free to speak from your own experience.  Personal experience does wonders to help your Member of Congress understand an issue.

***Specific Talking Points for a Phone Call with Your Member of Congress’ Staff:***

* I am calling to discuss my concerns with the FinCEN (pronounced *fin-sen*) Beneficial Ownership Reporting Requirements
* The FinCEN rule goes into effect on January 1, 2024.  Many small businesses do not know this filing requirement will impact them beginning in 2024.  We are deeply concerned that the small business community will not be ready to comply and **request that you cosponsor**  (in the House) H.R. 4035 or (in the Senate) S. 2623 the *Protecting Small Business Information Act of 2023*.
* By FinCEN’s own calculations, they expect 32.6 million filings in the first year that filings are due, and 5 or 6 million filings every year thereafter.
* Most businesses will be subject to the filing requirement.
  + Certain large operating entities and certain publicly traded companies are exempt. There is a list of 23 exceptions, but most businesses are not exempt.
  + Most 501(c) and 501(a) organizations are exempt from filing.
* Penalties on the taxpayer are steep:
  + $500 per day, up to $10,000;
  + and up to 2 years of imprisonment for willfully not filing.
* Given the steep penalties, we expect many small businesses will seek the assistance of a trusted financial professional to assist with their reporting requirement.
* Any change in beneficial ownership information must be reported to FinCEN within 30 days.  This could potentially mean that this would become a monthly reporting tracking requirement for tax professionals to keep up with client information changes to ensure they are compliant with the reporting requirements.
* There is debate that a tax professional providing any business advice as to who the beneficial owner or company applicant is could be deemed the unauthorized practice of law.  CPAs across the country will be contacting their state regulators, insurance carriers and/or legal counsel to further discuss this issue.
  + At the moment, no state has issued any specific guidance regarding whether providing advice on the BOI reporting requirement is considered unauthorized practice of law.
* Because of these concerns, ***we ask that your office cosponsor the “Protecting Small Business Information Act of 2023” (H.R. 4035 or S. 2623)***.  This legislation will provide a delay allowing small businesses to ensure they are prepared to report their beneficial ownership information.
* To conclude the call, offer to be a resource to staff on this issue in the future.

**For an email to your Member of Congress**

1. From your Member of Congress’ website homepage, typically you can select the “contact me” or “connect” or similar link on your Member of Congress’ homepage and it will take you to their online form.
2. Fill out the required information, and if you are asked to select the specific issue type, you can select: economy, financial services, tax, or any other issue that sounds like it might fit.
3. In the comment box you can copy/paste the following message.  ***Remember you may edit as you would like to fit your personal narrative on this issue***.  The more personal experience you share, the better your message will be received by your Members of Congress.

***Letter Body to Edit and Paste in the Comments/Message Section on Your Member of Congress’ Website:***

**\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\***

I am a CPA practitioner and constituent.  I am writing today to urge you to cosponsor the *Protecting Small Business Information Act of 2023* introduced in the U.S. House of Representatives as H.R. 4035 and in the U.S. Senate as S. 2623.   This legislation would delay the start date of the Financial Crime Enforcement Network (FinCEN’s) Beneficial Ownership Information (BOI) reporting requirements and would provide additional time for small businesses to learn about and better understand their new reporting requirements under the rule.

We have concerns with the rule as many small businesses do not know this filing requirement will impact them beginning in 2024.  It is expected that there will be 32.6 million filings in the first year that filings are due, and 5 or 6 million filings every year thereafter.

Existing small businesses have one year, until January 1, 2025, to comply with the reporting requirements.  New small businesses formed in 2024 and any existing business with changes in beneficial ownership information must report to FinCEN within 30 days.

Penalties for non-compliance on small business owners are steep: $500 per day, up to $10,000; and up to 2 years of imprisonment for willfully not filing. Given these steep penalties, we expect many small businesses to seek the expertise and assistance from the trusted financial professionals whom they often turn to for help with various reporting requirements.

A delay would provide small businesses and their trusted financial professionals with the necessary time to prepare for BOI reporting.  Please consider cosponsoring H.R. 4035 or S. 2623, the *Protecting Small Business Information Act of 2023,* to signal your support of the small business community.

Thank you for your consideration and please do not hesitate to reach out to me for further information on this issue.

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You can personalize this message with any additional information you would like your Members of Congress to know about this issue.

**Thank you!**

Thank you for reaching out to your Senators and Representative to share the profession’s advocacy position on the BOI reporting rule and the legislation to delay the rule.  If you have questions, please send an email to [CongAffairs@aicpa.org](file:///D:\Users\SRude\Downloads\CongAffairs@aicpa.org)