



March 15, 2023

Himamauli Das  
Acting Director, Financial Crimes Enforcement Network (FinCen)  
Docket Number FINCEN-2023-0002  
Office of Management and Budget (OMB) control number 1506-0076

**RE: Proposed Collection for Beneficial Ownership Information Reports**

Dear Mr. Das:

The American Association for Justice (“AAJ”) submits this comment regarding the proposed collection for beneficial ownership information reports. AAJ is a national, voluntary bar association established in 1946 to strengthen the civil justice system, preserve the right to trial by jury, and protect access to the courts for those who have been wrongfully injured. With members in the United States, Canada, and abroad, AAJ is the world’s largest plaintiff trial bar. AAJ members primarily represent plaintiffs in personal injury actions, employment rights cases, consumer cases, class actions, and other civil actions, and significant number of members own firms that would be required to report as beneficial owners. AAJ members expect AAJ to provide helpful and timely information about federal government requirements, including communicating knowledgeably about the Beneficial Ownership Reporting Requirement.

**I. The Collection Process Must Be as Simple as Possible.**

Generally, the public lacks information about the reporting requirement and because only one year is provided for all businesses to be fully compliant, it is important to make the form submission as simple as possible. This includes: 1) ensuring that the terminology used on the form is easy to understand; 2) defining terms unique to the rulemaking; and 3) providing clear instructions for filling out the form.

**1. Ensure that the terminology used on the form is easy to understand.**

In most cases, this means that the terminology has only one common definition or that a definition is provided directly on the form. There are several examples where the form could be interpreted in multiple ways. For example, as some other commenters have noted, the form should define the term “current address,” which may be unclear for businesses that have several locations or where primary business operations take place in a state other than the state of registration. Additionally, “exempt” entities do not have to provide beneficial owner information, but there is no information about who or what is exempt. If this information can be found elsewhere, which is

alluded to in the time estimate provided that it would take entities to fill out the form<sup>1</sup>, then it will be important to provide a link or reference to exempt entities on the form itself. Moreover, a beneficial owner may have more than one residential address. For beneficial owners who need to provide a residential address, the form should state whether the identifying document needs to match the residential address listed before the form is filled out.

Finally, the form assumes under Response 35 that only minor children would have guardianships in place that would necessitate someone else filling out the form. There may be other instances of beneficial owners with guardianships in place for various reasons, including that the beneficial owner is elderly and that an adult child has legal decision-making authority or that the beneficial owner has suffered a physical or mental trauma and a court has appointed a guardian. AAJ recommends that the agency consider providing additional guidance about these situations, especially since the beneficial owner may be residing at a facility, either temporarily or permanently that does not match their driver's license or state-issued identification card.

## 2. Define terms unique to the rule requirements.

There are numerous terms that may be unclear to a business owner attempting to fill out the form. For example, the form should clearly state the purpose of obtaining a FinCen identifier on the form itself. The FinCen identifier is supposed to limit access to personal information. How or what is limited should be made clear as well as any limitations on eligibility. Another corresponding rulemaking directly addresses the Collection of FinCen Identifiers<sup>2</sup> estimates that the number of individuals seeking to apply for a FinCen identifier will be approximately one percent of the reporting companies.

Further, the directions or form need to clearly describe and distinguish a “company applicant” from the “beneficial owner” reporting requirement. The current form provides that an individual can “report up to two” company applicants, which means that there could be zero, one, or two company applicants. The form also provides that “multiple beneficial owners may be reported.” Does this mean that in some instances no beneficial owners will be reported, either because they are exempt or have a FinCen identifier? Or does it mean that that there is no requirement to report all beneficial owners? It seems more likely that the agency is referring to the first interpretation, but the ability to indicate that some or all beneficial owners are unknown gives pause over what this means.

## 3. Provide clear instructions for filling out the form.

The rule provides a time estimate for reading the form and understanding the requirements, identifying, and collecting information on beneficial owners and company applicants, and filling out and filing the report. The proposed form does not show a set of instructions or information. It would be AAJ’s strong recommendation that basic instructions provided up front so that individuals tasked with compliance can understand the purpose of requirement, what information

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<sup>1</sup> The proposed rule estimates that it will take 40 minutes for reporting companies with a simple ownership structure to read and understand the form and up to 300 minutes for reporting companies with complex ownership structures to read and understand the form.

<sup>2</sup> Docket Number FINCEN-2023-0001 and Management and Budget (OMB) control number 1506-0076.

is required to be gathered, and the timeline for filing. It is also important to convey what changes trigger a requirement to update the form.

Although no mention is made in the proposed rule, it is imperative that the website for the collection of beneficial ownership information reports is compliant with the Americans With Disabilities Act (ADA). The Web Content Accessibility Guidelines<sup>3</sup> are a useful starting point for ensuring that a website is accessible and user-interactive for individuals with visual and other impairments who need accommodations.

## II. Provide Information About Protection of Personal Information.

AAJ understands that the rulemaking on Beneficial Information Access and Reporting is still under agency review. It is important that the safeguards of personal information and how that information will be used be available by link to beneficial owners or individuals completing the form of their behalf, who may be surprised to learn that a residential address rather than a business address is a collection requirement. To avoid people clicking “unknown” as a response, it is imperative that information to safeguard the protection of personal information be easily accessible as the form is filled out.

## III. Conclusion.

AAJ urges FinCen to streamline the collection process as much as possible. Properly filling out the form is a substantial time commitment, but it also ensures compliance. It is imperative that the instructions be clear and easy to follow, especially for beneficial owners or those completing forms on their behalf. Questions regarding this comment may be directed to Susan Steinman ([susan.steinman@justice.org](mailto:susan.steinman@justice.org)) or Victor Diaz ([victor.diaz@justice.org](mailto:victor.diaz@justice.org)).

Respectfully submitted,



Tad Thomas  
President  
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<sup>3</sup> <https://www.wuhcag.com/wcag-checklist/>