

List of countries determined to be appropriate to receive AEOI from US vs trusted countries who can access Corporate Transparency Act (CTA) Beneficial Owner Information (BOI)

Rev. Proc. 2024-42: Updated list of jurisdictions for exchanging deposit interest information

Internal Revenue Bulletin (IRB) 2024-52 (dated December 23, 2024) includes on page 1433 Rev. Proc. 2024-42 that updates the list of jurisdictions with which the United States has in effect a relevant information exchange agreement such that the reporting requirement of Treas. Reg. §§ 1.6049-4(b)(5) and 1.6049-8(a) may apply with respect

- to certain deposit interest paid to residents of such jurisdictions (Section 3),
- as well as the list of jurisdictions with which the Treasury Department and IRS have determined it is **appropriate** to have an automatic exchange relationship with respect to such information (Section 4).
- There is no description anywhere of how the US determines a country is appropriate to have an AEOI relationship.
 - a) Armenia and Uruguay were added to Section 3.
 - b) Costa Rica and Thailand were added to Section 4.

Background

The Treasury Department and IRS in April 2012 finalized regulations providing that US deposit interest payments made to nonresident alien individuals must be reported annually to the IRS—if such interest is paid to a nonresident alien individual who is a resident of a country with which the US has in effect an information exchange agreement, and under which the US agrees to provide (and to receive) information and under which the competent authority is the Treasury Secretary or delegate.

The 2012 regulations also stated that the IRS would issue a revenue procedure identifying those countries with which the US has in force information exchange agreements, and that this revenue procedure would be updated “as appropriate.” The first revenue procedure was Rev. Proc. 2012-24, issued in April 2012.

The IRS then issued Rev. Proc. 2014-64 that provided two lists:

- i. The list of countries under Section 3 of Rev. Proc. 2014-64 concerns those countries with which the US has in effect an income tax or other agreement relating to the exchange of tax information (as defined pursuant to section 6103(k)(4)) and with which the United States agrees to provide as well as receive information under which the competent authority is the Treasury Secretary or delegate.
- ii. A second list of countries under Section 4 of Rev. Proc. 2014-64 concerns those countries with which Treasury and the IRS **determined** that automatic exchange of deposit interest information is **appropriate**.

SECTION 3. JURISDICTIONS OF RESIDENCE WITH RESPECT TO WHICH THE DEPOSIT INTEREST REPORTING REQUIREMENT APPLIES

The following are the jurisdictions with which the United States has in effect an income tax or other convention or bilateral agreement relating to the exchange of tax information within the meaning of section 6103(k)(4) pursuant to which the United States agrees to provide, as well as receive, information and under which the competent authority is the Secretary of the Treasury or the Secretary's delegate:

	Jurisdiction
1 2	Antigua & Barbuda
3 4	Argentina
5 6	Armenia
7 8	Aruba
9	Australia
10	Austria
11	Azerbaijan
12	Bangladesh
13	Barbados
14	Belgium
15	Bermuda
16	Brazil
17	British Virgin Islands
18	Bulgaria
19	Canada
20	Cayman Islands
21	Chile
22	China
23	Colombia
24	Costa Rica
25	Croatia
26	Curaçao
27	Cyprus
28	Czech Republic
29	Denmark
30	Dominica
31	Dominican Republic
32	Ecuador
33	Egypt
34	Estonia
35	Faroe Islands
36	Finland
37	France
38	Georgia
39	Germany
40	Gibraltar
41	Greece
42	Greenland
43	Grenada
44	Guernsey
	Guyana
	Honduras
	Hong Kong
	Hungary

	Jurisdiction
45	Iceland
46	India
47	Indonesia
48	Ireland
49	Isle of Man
50	Israel
51	Italy
52	Jamaica
53	Japan
54	Jersey
55	Kazakhstan
56	Korea, Republic of
57	Latvia
58	Liechtenstein
59	Lithuania
60	Luxembourg
61	Malta
62	Marshall Islands
63	Mauritius
64	Mexico
65	Moldova
66	Monaco
67	Morocco
68	Netherlands
69	Netherlands special municipalities: Bonaire, Sint Eustatius, and Saba
70	New Zealand
71	Norway
72	Pakistan
73	Panama
74	Peru
75	Philippines
76	Poland
77	Portugal
78	Romania
79	Russian Federation
80	Saint Lucia
81	Singapore
82	Sint Maarten
83	Slovak Republic
84	Slovenia
85	South Africa
86	Spain
87	Sri Lanka
88	
89	Switzerland
90	Thailand
91	Trinidad and Tobago
92	Tunisia
93	Turkey
94	Ukraine
95	United Kingdom
96	Uruguay
98	Venezuela

Since 2014, the IRS has periodically issued guidance that updates and adds countries to one or both lists of countries.

SECTION 4. JURISDICTIONS WITH WHICH THE TREASURY DEPARTMENT AND THE IRS HAVE DETERMINED THAT AUTOMATIC EXCHANGE OF DEPOSIT INTEREST INFORMATION IS APPROPRIATE

The following list identifies the jurisdictions with which the automatic exchange of the information collected under §§ 1.60494(b)(5) and 1.60498 has been determined by the Treasury Department and the IRS to be appropriate

	Jurisdiction		Jurisdiction
1	Argentina	24	India
2	Australia	25	Ireland
3	Azerbaijan	26	Isle of Man
4	Belgium	27	Israel
5	Brazil	28	Italy
6	Canada	29	Jamaica
7	Colombia	30	Jersey
8	Costa Rica	31	Kazakhstan
9	Croatia	32	Korea, Republic of
10	Curaçao	33	Latvia
11	Cyprus	34	Liechtenstein
12	Czech Republic	35	Lithuania
13	Denmark	36	Luxembourg
14	Dominican Republic	37	Malta
15	Estonia	38	Mauritius
16	Finland	39	Mexico
17	France	40	Netherlands
18	Germany	41	New Zealand
19	Gibraltar	42	Norway
20	Greece	43	Panama
21	Guernsey	44	Poland
22	Hungary	45	Portugal
23	Iceland	46	Saint Lucia
24		47	Singapore
		48	Slovak Republic
		49	Slovenia
		50	South Africa
		51	Spain
		52	Sweden
		53	Thailand
		54	Turkey
		55	United Kingdom

LIST ASSOCIATED WITH TRUSTED FOREIGN COUNTRIES CONSIDERED APPROPRIATE TO REQUEST BOI FROM THE CORPORATE TRANSPARENCY ACT

*FinCEN may disclose BOI to foreign requesters, provided their requests meet certain criteria, including to trusted foreign countries. It makes sense that the list of **trusted foreign countries** who may request access to CTA's BOI is the same listed determined by the Treasury Department and the IRS to be **appropriate** to receive automatic exchange of information.*

*Note that Treasury and IRS determine the **appropriate** countries vs FATCA while FinCEN, which is part of Treasury, determines which countries are trusted foreign countries.*

It is worth noting there is no public disclosure of what criteria is used to determine if a country is considered appropriate to receive AEOI.

Fact Sheet: Beneficial Ownership Information Access and Safeguards Final Rule

<https://www.fincen.gov/news/news-releases/fact-sheet-beneficial-ownership-information-access-and-safeguards-final-rule>

Release date: December 21, 2023

In accordance with the CTA, the Access Rule provides access to BOI to Federal agencies engaged in national security, intelligence, or law enforcement activity; State, local, and Tribal law enforcement agencies with court authorization; foreign law enforcement agencies, judges, prosecutors, and other authorities that meet specific criteria; financial institutions with customer due diligence requirements and regulators supervising them for compliance with such requirements; and U.S. Department of the Treasury (Treasury) officers and employees. Each category of authorized recipients is subject to security and confidentiality protocols aligned with applicable access and use provisions.

This Access Rule follows the final BOI Reporting Rule FinCEN issued on September 30, 2022, which requires certain corporations, limited liability companies, and other similar entities created in or registered to do business in the United States to report to FinCEN information about themselves, their beneficial owners, and, in some cases, their company applicants to help authorized BOI recipients protect national security, enforce laws, and promote other policy objectives identified in the CTA. For more information about the BOI Reporting Rule, please see www.fincen.gov/boi.

The Access Rule reflects FinCEN's careful consideration of detailed public comments received in response to its December 16, 2022 Notice of Proposed Rulemaking on the topic, along with extensive interagency consultations. The following provides a general overview of the key elements of the Access Rule and related administrative details. Please refer to the full rule for further details, including important definitions.

The Access Framework

The CTA establishes that BOI is confidential and may not be disclosed except as authorized under the CTA and the Access Rule. FinCEN is authorized to disclose BOI under specific circumstances to six categories of recipients: (1) U.S. Federal agencies engaged in national security, intelligence, or law enforcement activity; (2) U.S. State, local, and Tribal law enforcement agencies; (3) **foreign law enforcement agencies, judges, prosecutors, central authorities, and competent authorities (foreign requesters)**; (4) financial institutions using BOI to facilitate compliance with customer due diligence (CDD) requirements under applicable law; (5) Federal functional regulators and other appropriate regulatory agencies acting in a supervisory capacity assessing financial institutions for compliance with CDD requirements under applicable law; and (6) Treasury officers and employees.

Each category of authorized user will be subject to specific security and confidentiality requirements, in line with the CTA, to protect the security and confidentiality of BOI.

Authorized Recipients

Foreign requesters. FinCEN may disclose BOI to foreign requesters, provided their requests meet certain criteria. Specifically, the foreign request for BOI must be on behalf of a law enforcement agency, prosecutor, or judge of another country, or on behalf of a foreign central authority or foreign competent authority, and: (1) come to FinCEN through an intermediary Federal agency; (2) **be for assistance in a law enforcement investigation or prosecution, or for a national security or intelligence activity, authorized under the laws of the foreign country**; and (3) either be made under an international treaty, agreement, or convention, or, when no such instrument is available, be an official request by a law enforcement, judicial, or prosecutorial authority of a **trusted foreign country**.

Security and Confidentiality Requirements

Foreign requesters who obtain BOI under an international treaty, agreement, or convention must comply with all applicable handling, disclosure, and use requirements of the international treaty, agreement, or convention under which the request was made.

Foreign requesters who obtain BOI pursuant to a request from a “trusted foreign country” must establish standards and procedures to protect the security and confidentiality of BOI, maintain the BOI in a secure system, and restrict access to the information, among other requirements.

Beneficial Ownership Information Access and Safeguards

<https://www.federalregister.gov/documents/2023/12/22/2023-27973/beneficial-ownership-information-access-and-safeguards>

With respect to the requirement that a foreign request be made under an “international treaty, agreement, or convention,” FinCEN explained that it understood those terms to cover a legally binding agreement governed by international law.

FinCEN did not propose to identify specific countries it would treat as “trusted” in situations when no international treaty, agreement, or convention applied.¹

The Access NPRM explained that to define “trusted foreign country” would have risked arbitrarily excluding foreign requesters with whom sharing BOI might be appropriate in some cases but not others.

FinCEN instead proposed to conduct case-by-case assessments in consultation with relevant U.S. government agencies to determine whether to disclose BOI to a foreign requester in a particular instance.

In the Access NPRM, FinCEN explained that it did not expect foreign requesters to have direct access to the BO IT system, but rather that intermediary Federal agencies would perform BOI searches in the system on a foreign requester's behalf.

Before acting as intermediaries, Federal agencies would first have to fulfill several requirements, including:

- (1) ensuring that they have secure systems for BOI storage;
- (2) entering into MOUs with FinCEN outlining expectations and responsibilities;
- (3) incorporating the CTA foreign sharing requirements into evaluation criteria with which to review BOI requests from foreign requesters;
- (4) integrating the evaluation criteria into their existing information-sharing policies and procedures;
- (5) developing additional security protocols and systems as required under the CTA and this rule; and
- (6) ensuring that their personnel have sufficient training on BOI security and use requirements and restrictions.

¹ Mark note: This is section 3 of the Rev Procs. Section 4 lists the appropriate list which is a subset of 57 of 98 countries.)