

## Corporate Transparency Act Summary of Requirements

The Corporate Transparency Act (CTA) was enacted on January 1, 2021, as part of the National Defense Authorization Act for Fiscal Year 2021. The primary purpose of the CTA is to provide national security and law enforcement agencies with certain information to help prevent criminals, terrorists, and other bad actors from hiding and moving illicit money, proceeds and property in the United States. On September 29, 2022, the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) issued a final rule implementing the CTA's beneficial ownership information (BOI) reporting provisions, which require certain business entities (Reporting Companies) to:

- Report certain BOI to FinCEN
- Disclose information about who created the entity or registered it to do business in the United States
- Report any changes to previously reported information within a specified time period

The CTA defines a "Reporting Company" as a corporation, limited liability company, or other similar entity that is (i) created by the filing of a document with a secretary of state or a similar office under the law of a state, territory, or Indian Tribe; or (ii) formed under the law of a foreign country and registered to do business in the United States by the filing of a document with a secretary of state or a similar office under the laws of a state, territory, or Indian Tribe. The CTA provides 23 exemptions from the definition of a Reporting Company (each subject to specific requirements) for the following types of entities:

1. Large operating companies (must meet all three conditions: more than 20 full-time employees in United States., operating presence and physical office in United States, and more than \$5 million U.S. gross receipts or sales)
2. Securities reporting issuers
3. Governmental authorities
4. Banks
5. Credit unions
6. Depository institution holding companies
7. Money services businesses
8. Broker-dealers
9. Securities exchange or clearing agencies
10. Other registered entities under the Securities Exchange Act
11. Venture capital fund advisers
12. Certain pooled investment vehicle
13. Registered investment companies or advisers under the Investment Company Act or the Investment Advisers Act
14. Insurance companies
15. State-licensed insurance producers
16. Commodity Exchange Act registered entities
17. Accounting firms
18. Public utilities
19. Financial market utilities
20. Tax-exempt entities under section 501(c) of the Internal Revenue Code
21. Entities assisting tax-exempt entities
22. Subsidiaries of certain exempt entities
23. Inactive entities

The CTA requires that a Reporting Company's BOI report identifies the Reporting Company's:

- Beneficial owners (natural persons exercising substantial control over the Reporting Company or owning or controlling 25% or more of its ownership interests)
- In the case that a Reporting Company is created or becomes a foreign Reporting Company on or after January 1, 2024, company applicant(s)

FinCEN stated that it expects all Reporting Companies to identify at least one individual who is a natural person, and not an entity, with substantial control.

The CTA defines a "company applicant" as:

- The individual who directly files the document that creates the entity or, in the case of a foreign Reporting Company, the document that first registers the entity to do business in the United States
- The individual who is primarily responsible for directing or controlling the filing of the relevant document by another

## Frequently Asked Questions

1. **When does the CTA take effect, and how soon does a Reporting Company have to submit a report to comply with the CTA?**

The BOI reporting requirements under the CTA take effect on January 1, 2024 (the Effective Date). A Reporting Company that is created, or that becomes a foreign Reporting Company before the Effective Date, has until January 1, 2025 to file its initial BOI report. A Reporting Company that is created or that becomes a foreign Reporting Company on or after the Effective Date and before January 1, 2025 must file its initial BOI report within 90 days of the earlier date on which: (a) it receives actual notice that its creation or, in the case of a foreign Reporting Company, its registration to do business has become effective; or (b) a secretary of state or similar office first provides public notice, such as through a publicly accessible registry, that the domestic Reporting Company has been created or, in the case of a foreign Reporting Company, registered to do business. A Reporting Company created or registered on or after January 1, 2025, will have 30 days to file its BOI report.

2. **How is BOI reported to and stored by FinCEN, and is there a fee for submitting BOI reports?**

BOI reports are to be submitted electronically through the secure filing system that will be available through FinCEN's website. FinCEN will store the BOI reported under the CTA in a secure, nonpublic database which, consistent with federal law, will be cloud-based and will meet the highest Federal Information Security Modernization Act level to keep BOI secure. There will be no fee for submitting BOI reports to FinCEN.

3. **What information must a Reporting Company provide for itself and each beneficial owner?**

A Reporting Company will have to report:

- Its legal name
- Any trade names, "doing business as" (d/b/a), or "trading as" (t/a) names
- The current street address of its principal place of business if that address is in the United States or, for foreign Reporting Companies whose principal place of business is outside the United States, the current address from which the company conducts business in the United States
- Its jurisdiction of formation or registration
- Its taxpayer identification number

The following information must be provided for each beneficial owner and company applicant:

- Full legal name
- Date of birth
- Current residential street address (or business street address for company applicants who form or register an entity in the course of their business)
- A unique identifying number from an acceptable identification document, such as a passport or a driver's license
- An image of the identification document from which the unique identification number was obtained.

Individuals who provide the above information can obtain a FinCEN identification number to simplify future BOI reports. Note that if one or more exempt entities have a direct or indirect ownership interest in a Reporting Company and an individual is a beneficial owner of the Reporting Company exclusively by virtue of the individual's ownership interest in such exempt entities, the report may include the names of the exempt entities in lieu of the above information with respect to such beneficial owner.

4. **What if certain BOI changes after submission to FinCEN?**

Reporting Companies must update their previously filed BOI reports if any required information regarding the Reporting Company or its beneficial owners (but not company applicants) changes and must correct any inaccuracies in previously filed reports. A Reporting Company has 30 days to report changes and to correct inaccuracies.

5. **Are there any penalties for non-compliance with the CTA reporting requirements?**

Yes, failure to provide complete, accurate and timely information, or to willfully providing false or fraudulent BOI, can result in civil and criminal penalties. Penalties may include a fine of \$500 for each day the violation continues (up to \$10,000), imprisonment for up to two years, or both.