

HR COMPLIANCE BULLETIN

Preparing for the Corporate Transparency Act

The [Corporate Transparency Act](#) (CTA), which became effective **Jan. 1, 2024**, requires certain business entities, or CTA “reporting companies,” to report their beneficial ownership information (BOI) and certain related information to the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN).

The CTA aims to combat illicit financial activity, including money laundering, the financing of terrorism, tax fraud and drug trafficking, by creating a centralized database of information about the individuals who ultimately own or control certain businesses that do business in the United States. The CTA generally targets small, privately held businesses and exempts many organizations from its requirements, including large employers and publicly held companies.

The reporting requirements may be unfamiliar to many small businesses that have not been subject to similar requirements in the past. Therefore, businesses that are considered reporting companies under the CTA should familiarize themselves with their reporting obligations and take steps now to ensure that they will be in compliance by their initial reporting deadline.

Helpful Resources

- FinCEN – [BOI Homepage](#)
- FinCEN – [BOI Informational Brochure](#)
- FinCEN – [BOI Frequently Asked Questions](#)
- FinCEN – [BOI Small Entity Compliance Guide](#)

Key Information

- The CTA requires domestic and foreign reporting companies to report information about the individuals who own or control their businesses to FinCEN.
- Small, privately held companies are the focus of the new reporting requirements, as large employers and publicly held companies are generally exempt.

Important Dates

Jan. 1, 2024

The CTA became effective and FinCEN began accepting BOI reports.

Jan. 1, 2025

Reporting companies created or registered to do business in the United States before Jan. 1, 2024, must file their initial BOI reports.



Background

The CTA was enacted in 2021 as part of the Anti-Money Laundering Act of 2020, to combat illicit financial activity, such as money-laundering, tax fraud and financing of terrorism. On Sept. 30, 2022, FinCEN published a [final rule](#) to clarify the reporting provisions of the CTA and has since issued a number of additional regulations to further amend the final rule and implement the CTA. For example, these additional regulations:

- **Dec. 22, 2023**—[Addressed how authorized recipients can access and use BOI](#) reported to FinCEN and how authorized recipients will place protocols on security and confidentiality required to protect personally identifiable information.
- **Nov. 8, 2023**—Specified the circumstances in which a reporting company may [report an entity's FinCEN identifier](#) (i.e., a unique identifier issued by FinCEN upon request) in lieu of BOI; and
- **Nov. 30, 2023**—[Extended the deadline](#) for certain entities to file their initial BOI reports.

The CTA and the implementing regulations took effect on Jan. 1, 2024. On that date, FinCEN also began accepting BOI reports. In general, such reports must include information about the company and its beneficial owners (i.e., the individuals who own or control the business).

Steps to Comply with the CTA

Establish Whether the Entity is Subject to the CTA

As an initial matter, businesses should establish whether they are subject to the CTA's reporting requirements. The CTA applies only to those entities that qualify as a "reporting company" under the law. A reporting company may be either a "domestic reporting company" or a "foreign reporting company," as defined below:

- A **domestic reporting company** is:
 - A corporation;
 - A limited liability company; or
 - Any other entity created by the filing of a document with a secretary of state or similar office under the law of a U.S. state or American Indian tribe.
- A **foreign reporting company** is:
 - A corporation, limited liability company or other entity formed under the law of a foreign country; and
 - Registered to do business in any U.S. state or tribal jurisdiction by the filing of a document with a secretary of state or any similar office under the law of a U.S. state or American Indian tribe.

Exemptions

Entities that satisfy either of the above definitions may still be exempt from the CTA's reporting requirements if an exemption applies. The CTA provides 23 exemptions, so businesses should carefully review the CTA to assess whether they qualify for any such exemption. These exemptions include but are not limited to those for:

- Large operating companies:
 - With more than 20 full-time employees in the United States;
 - That reported more than \$5 million in gross receipts or sales on their prior year's U.S. federal income tax return; and
 - That have an operating presence at a physical office in the U.S.

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- Public companies;
- Inactive entities that existed on or before Jan. 1, 2020;
- Insurance companies and insurance providers;
- Other highly regulated financial services companies (e.g., banks, credit unions and registered securities brokers or dealers);
- Public accounting firms;
- Tax-exempt entities, like 501(c)(3) nonprofit organizations, political organizations and certain trusts; or
- Subsidiaries that are wholly owned or controlled, directly or indirectly, by certain exempt entities that are exempt from the CTA reporting requirements.

Review Reporting Deadlines

Initial Reporting Deadlines

The CTA imposes different reporting deadlines depending on when the domestic reporting company is created (in the case of domestic reporting companies) or the date a foreign entity registers as a foreign reporting company, as set forth in the table below. The CTA began accepting reports on Jan. 1, 2024, so CTA reporting companies may file their reports at any time prior to the reporting deadline.

Date of Creation or Registration	CTA Reporting Deadline
Before Jan. 1, 2024	Jan. 1, 2025
On or after Jan. 1, 2024, and before Jan. 1, 2025	Within 90 days of actual or public notice of such creation or registration
On or after Jan. 1, 2025	Within 30 days of actual or public notice of such creation or registration

Further, any company that previously qualified for an exemption, but no longer does, must file an initial report within **30 calendar days** of the date on which it ceases to qualify for an exemption.

Additional Reporting Deadlines

In addition to the initial reporting deadlines set forth above, businesses should keep in mind the following reporting deadlines:

- **Newly exempt status**—A company that did not initially qualify for an exemption but later becomes exempt should file an updated report to indicate that it is newly exempt from the reporting requirements;
- **Updated information**—If there is any change to the required information about a reporting company or its beneficial owners, the company must file an updated report no later than **30 days** after the date on which the change occurred; and
- **Correcting inaccuracies**—If a reporting company identifies any inaccuracies in a previously filed report, it must correct it no later than **30 days** after the date it becomes aware or has reason to know of an inaccuracy.



Compile Required Information

The CTA requires each reporting company to report certain information about the reporting company, its beneficial owners and, for reporting companies created on or after Jan. 1, 2024, a maximum of two company applicants. Therefore, before preparing the report, companies should determine the relevant parties about which they must report.

Establish the Reporting Company's Beneficial Owners

All reporting companies must disclose information regarding the company's beneficial owners. The CTA defines a beneficial owner as any individual who, directly or indirectly, (i) exercises **substantial control** over the reporting company; or (ii) owns or controls at least **25% of the ownership interests** of the reporting company. An individual might be a beneficial owner through substantial control, ownership interests or both, but reporting companies need not provide the reason that an individual is a beneficial owner. Pursuant to the CTA:

- An individual exercises **substantial control** if they:
 - Are a senior officer;
 - Have authority to appoint or remove certain officers or a majority of directors of the reporting company;
 - Are an important decision-maker; or
 - Have any other form of substantial control over the reporting company.
- **Ownership interests** include any of the following:
 - Equity, stock or voting rights;
 - A capital or profit interest;
 - Convertible instruments;
 - Options or other non-binding privileges to buy or sell any of the foregoing; and
 - Any other instrument, contract or other mechanism used to establish ownership.

A reporting company **does not** need to include any of the following individuals who would otherwise be a beneficial owner if they satisfy all requirements to be considered as such under the CTA:

- Minor child (the reporting company must instead report information about the child's parent or legal guardian)
- Nominee, intermediary, custodian, or agent;
- Employee of the reporting company;
- Inheritor of a future interest in a company (this exception does not apply once the individual inherits the interest); or
- Creditor of the reporting company.

Determine Whether to Report Company Applicants

In addition to reporting their beneficial owners, certain reporting companies must also report certain information about their company applicants. A reporting company is required to report company applicants if it is either:

- A domestic reporting company created **on or after Jan. 1, 2024**; or
- A foreign reporting company first registered to do business in the United States **on or after Jan. 1, 2024**.

Any reporting company that must report company applicants will have to identify and report to FinCEN at least one company applicant, but no more than two. Only individuals may be applicants, companies or legal entities may not. A company applicant may be either:

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- A **direct filer**—the individual who directly filed the document that either created a domestic reporting company or first registered a foreign reporting company (this individual would have physically or electronically filed the document with the secretary of state or similar office, and *all reporting companies must report at least one direct filer*); or
- An individual who **directs or controls the filing action**—the individual who was primarily responsible for directing or controlling the filing of the creation or first registration document (*not all reporting companies will need to report this second individual*).

Information That Must Be Reported

After establishing which individuals are considered beneficial owners and company applicants (if applicable), reporting companies must collect the following information:

Reporting Company Information

- Full legal name;
- Any trade name or “doing business as” (DBA) name;
- Complete and current U.S. address;
- State, Tribal, or foreign jurisdiction of formation;
- For foreign reporting companies only, the State or Tribal jurisdiction of first registration; and
- Internal Revenue Service (IRS) Taxpayer Identification Number (TIN), including an Employer Identification Number (EIN) (or, if a foreign reporting company has not been issued a TIN, a tax identification number issued by a foreign jurisdiction and the name of the jurisdiction).

Beneficial Owner and Company Applicant Information

- Full legal name;
- Date of birth;
- Complete current address (in most cases, the individual’s residential street address); and
- Unique identifying number and issuing jurisdiction from, and image of, one of the following non-expired documents:
 - U.S. passport;
 - State driver’s license;
 - Identification document issued by a state, local government or tribe; or
 - If an individual does not have any of the previous documents, a foreign passport.

Individuals or reporting companies may request a **FinCEN identifier**—a unique identifying number that FinCEN will issue upon request after the individual or reporting company provides certain information to FinCEN. Reporting companies may report the FinCEN identifier of an individual who is a beneficial owner or company applicant in place of that individual’s otherwise required personal information. A reporting company may report another entity’s FinCEN identifier and full legal name in lieu of the required BOI if (1) the other entity obtained a FinCEN identifier and provided it to the reporting company, (2) the beneficial owner(s) of the reporting company hold ownership interests in the reporting company through ownership interests in the other entity, and (3) the beneficial owners of the other entity and the reporting company are the same individuals.

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File the Initial Report and any Updated Reports Online

After the reporting information is compiled and checked for accuracy, reporting companies are required to file their initial reports electronically through a [secure filing system](#) that is available on FinCEN's website.

Penalties for Noncompliance

Any person (including the reporting company, any individual or any other entity) that willfully fails to comply with the CTA's reporting obligations or that willfully provides incorrect information may be liable for civil penalties of up to \$500 per day that the violation continues and criminal penalties equal to fines of up to \$10,000, two years of imprisonment, or both.

Next Steps for Businesses

Businesses should carefully review the CTA to determine whether they are subject to its reporting requirements or qualify for one of the 23 listed exemptions. Businesses that meet the definition of reporting companies under the law may begin gathering all the necessary information, including information regarding the company and its beneficial owners, to ensure that they are prepared to comply with the CTA before their initial reporting deadline. As FinCEN began accepting reports on Jan. 1, 2024, reporting companies may submit finalized reports at any time prior to such deadline.