



Corporate Transparency Act (CTA) Resource Page

On March 2, 2025, the Treasury provided yet another update regarding the Corporate Transparency Act (CTA). The Treasury announced that it will not be enforcing penalties or fines associated with beneficial ownership reporting under the existing regulatory guidelines and that it will be issuing a new rule for reporting.

Concerned about complying with the Corporate Transparency Act ("CTA")? Foster Swift has a solution.

You can work with us to make sure to you are interpreting the terminology, "Reporting Company, Beneficial Owner, Applicant, and Substantial Control" accurately for your organization. Once this information is collected, Foster Swift can guide you through the filing process.

We understand the anxiety that the CTA brings you, between data security and the threat of civil and criminal penalties if you fail to abide. To help keep you current, we are maintaining this online resource page with videos and articles with the latest information.

Have further legal questions? We encourage you to contact one of Foster Swift's designated CTA team

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WHAT COMPANIES ARE COVERED BY THE CTA?

The CTA defines "domestic reporting company" as any entity that is a corporation, limited liability company, or was created by filing a document with the secretary of state or any similar office under the law of a state or Indian tribe.

The CTA defines "foreign reporting company" as any entities that is (1) a corporation, limited liability company or was created by filing a document with the secretary of state or any similar office under the law of a state or Indian tribe; (2) was formed under the law of a foreign country; and (3) registered to do business in any state or tribal jurisdiction by the filing of a document with a secretary of state or any similar office under the law of a state of Indian tribe.

There are 23 exemptions to Reporting Companies designed to relieve companies from reporting under the premise that they likely report similar information through other channels.

WHAT ARE THE EXEMPTIONS TO REPORTING COMPANIES?

The CTA exempts 23 specific types of entities. The idea is that many of these entities are already subject to substantial federal/state regulations and have to provide beneficial ownership information to a governmental authority through such requirements. The exempted entities are listed below:



1. Securities reporting issuer
2. Governmental authority
3. Bank
4. Credit Union
5. Depository Institution Holding company
6. Money services business
7. Broker or dealer in securities
8. Securities exchange or clearing agency
9. Other Exchange Act registered entity
- 10 Investment company or investment advisor
- 11 Venture capital fund advisor
- 12 Insurance company
- 13 State-licensed insurance producer
- 14 Commodity Exchange Act registered entity
- 15 Accounting firm
- 16 Public entity
- 17 Financial market utility
- 18 Pooled investment vehicle
- 19 Tax-exempt entity
- 20 Entity assisting a tax-exempt entity
- 21 Large operating company*
- 22 Subsidiary of certain exempt entities
- 23 Inactive entity

The CTA provides additional guidance for each of these entity types, so a facts and circumstances analysis must be completed to determine if a specific entity does or does not qualify for an exemption.

We note the large operating company exemption above because it is a big exemption that will exclude a number of entities. A large operating company is any entity that:

- (A) Employs more than 20 full time employees in the United States,
- (B) Has an operating presence at a physical office within the United States; and



(C) Filed a Federal income tax or information return in the United States for the previous year demonstrating more than \$5,000,000 in gross receipts or sales, as reported as gross receipts or sales (net of returns and allowances) on the entity's IRS Form 1120, consolidated IRS Form 1120, IRS Form 1120-S, IRS Form 1065, or other applicable IRS form, excluding gross receipts or sales from sources outside the United States, as determined under Federal income tax principles.

WHO MUST REPORT?

The CTA requires reporting of two categories of individuals: (1) the beneficial owners of the entity and (2) the individuals who have filed an application with specific governmental authorities to create or register it to do business.

A beneficial owner is defined in the CTA as "any individual who, directly or indirectly, either exercises substantial control over such reporting company or owns or controls at least 25 percent of the ownership interests of such reporting company." Beneficial owners who satisfy either of those two components must report, unless they are subject to an exclusion.

There are five exclusions to beneficial owner:

1. A minor child, provided that a parent or guardian's information is reported,
2. An individual acting as a nominee, intermediary, custodian, or agent on behalf of another individual,
3. An individual acting solely as an employee of a reporting company in specified circumstances,
4. An individual whose only interest in a report company is a future interest through a right of inheritance, and
5. A creditor of a reporting company.

A "Company Applicant" under the CTA is an individual who files the document that forms the entity. This means individuals who are responsible for the creation of a reporting company through the filing of formation documents, and the individual that directly submits the formation documents (if that function is performed by a different person). In the case of a foreign reporting company, however, a company applicable is an individual who files the document that first registers the company to do business in the U.S.

WHAT INFORMATION MUST BE REPORTED?

For each beneficial owner and each individual who files an application to form a domestic entity or registration of a foreign entity to do business, there are four pieces of required information:

1. The individual's full legal name,
2. The individual's date of birth,
3. The individual's current residential or business street address, and
4. A unique identifying number from an acceptable identification (e.g., a passport, nonexpired state, local, or Tribal identification document, driver's license) or the individual's FinCEN identifier.



Note that a FinCEN identifier is a unique identifying number that FinCEN will issue to individuals or reporting companies upon request, subject to certain conditions. For individuals, FinCEN will issue a FinCEN identifier if an individual submits to FinCEN the same four pieces of identifying information as would be required in a beneficial ownership information report. For reporting companies, FinCEN will issue a FinCEN identifier only at or after the time the reporting company files an initial report.

It is expected that FinCEN will permit an individual or business to use its FinCEN Identifier when submitting materials rather than submitting the four pieces of information outlined above for each report.

WHEN MUST THE INFORMATION BE REPORTED?

The rules become effective January 1, 2024. New entities formed between January 1, 2024 and December 31, 2024 will have 90 days from creation to report to FinCEN. New entities formed after January 1, 2025 will have 30 days from creation to report to FinCEN. There is also a 30-day deadline for entities filing updated and corrected reports. The deadline for corrected reports begins when the company becomes aware or has reason to know that reported information is inaccurate.

For existing entities, the final rule requires those reporting companies that exist at the time of the effective date to submit an initial report within one year of the effective date. That means, existing entities will have one year from January 1, 2024, to report.

For entities that were in existence prior to the effective date, the entity will not be required to report applicant information. Rather, the entity will be permitted to report that it was created prior to the effective date and to report the information required for reporting companies and beneficial owners.

We note also that the CTA requires a certification that the information reported is “true, correct, and complete.”

WHERE WILL THE INFORMATION BE STORED?

The CTA directs the Secretary of the Treasury to maintain the reported information “in a secure, nonpublic database, using information security methods and techniques that are appropriate to protect non-classified information security systems at the highest security level.” FinCEN developed the Beneficial Ownership Secure System (“BOSS”) to receive, store, and maintain the information. It is expected that all reports will be made electronically directly to the BOSS system.

WHAT ARE THE PENALTIES FOR NOT REPORTING?

There are potential civil and criminal penalties if a person fails to report or fails to update beneficial ownership with FinCEN. FinCEN is in process of writing these rules.