

Corporate Transparency Act

Frequently Asked Questions

1. *What is the purpose of the Corporate Transparency Act, and who is subject to its reporting requirements?*

The purpose of the Corporate Transparency Act is to eliminate the use of legal entities to hide the ownership of illicit businesses. The CTA applies to all entities that satisfy the CTA's definition of a "reporting company."

2. *What is FinCEN?*

FinCEN is the Financial Crimes Enforcement Network, a bureau of the U.S. Department of the Treasury. It is the federal agency that will enforce and monitor compliance with the Corporate Transparency Act.

3. *Which legal entities satisfy the CTA's definition of a "reporting company"?*

A reporting company is (i) a corporation, limited liability company, or other legal entity created by the filing of a document with a secretary of state or similar office of an Indian Tribe or (ii) a legal entity created in a foreign country and registered to do business in any U.S. state or Tribal jurisdiction that is not otherwise exempt from the filing requirements of the Corporate Transparency Act.

4. *Which legal entities otherwise subject to the CTA's reporting requirements are exempt from those requirements?*

The Corporate Transparency Act identifies 23 types of businesses that are exempt from its reporting requirements, and are therefore considered not to be reporting companies. These include businesses engaged in heavily regulated industries (particularly in financial services), tax-exempt corporations, and "large operating companies." For the purpose of the CTA, a large operating company is an entity with more than 20 full-time employees in the United States, more than \$5,000,000 in U.S.-source receipts or sales reported on its most recent federal tax return, and an operating presence in the United States.

5. *What is a beneficial owner?*

A beneficial owner is any individual who directly or indirectly (i) owns or controls 25% or more of the ownership interests (including voting rights, capital or profits interests, convertible instruments, or options) of a reporting company or (ii) is able to exercise substantial control over a reporting company. Individuals deemed to have substantial control include, but are not limited to, a reporting company's president, vice presidents, general counsel, CEO, CFO, and COO. A reporting company's treasurer and secretary are not per se included.

6. *What information must a reporting company incorporated or formed on or before December 31, 2023, submit initially to FinCEN?*

A reporting company incorporated or formed on or before December 31, 2023, must submit an initial filing containing reporting company information and beneficial owner information for each of its beneficial owners to FinCEN.

7. *When must a reporting company incorporated or formed on or before December 31, 2023, make an initial filing with FinCEN?*

A reporting company incorporated or formed on or before December 31, 2023, must submit its initial filing to FinCEN on or before January 1, 2025.

8. *What is reporting company information?*

Reporting company information is an entity's (i) full legal name, (ii) registered or unregistered trade name or "doing business as" name, if any, (iii) complete current U.S. address, (iv) state, Tribal, or foreign jurisdiction of formation (for foreign reporting companies, state or Tribal jurisdiction of first registration), and (v) IRS taxpayer identification number.

9. *What is beneficial owner information?*

Beneficial owner information is a beneficial owner's (i) full legal name, (ii) date of birth, (iii) complete current address, and (iv) unique identifying number and issuing jurisdiction from, and image of, a non-expired (a) U.S. passport, (b) state driver's license, (c) state, local, or Tribal identification document, or (d) if the individual does not have any of (a) through (c), a foreign passport.

10. *What information must a reporting company incorporated or formed after 2023 submit initially to FinCEN?*

A reporting company incorporated or formed on or after January 1, 2024, must submit an initial filing containing reporting company information, beneficial owner information, and company applicant information to FinCEN.

11. *When must a reporting company incorporated or formed after 2023 make an initial filing with FinCEN?*

A reporting company formed or incorporated on or after January 1, 2024, and on or before December 31, 2024, must submit its initial filing to FinCEN within 90 days of incorporation or formation. A reporting company formed or incorporated after December 31, 2024, must submit its initial filing to FinCEN within 30 days of incorporation or formation.

12. *What is a company applicant?*

A company applicant is an individual who (i) files the documentation required to incorporate or form a reporting company or to first register a foreign reporting company in a US state, such as a paralegal, or (ii) directs or controls such a filing, such as an attorney overseeing a paralegal who files that documentation. Every reporting company must have one, and not more than two, company applicants.

13. *What is company applicant information?*

Company applicant information is the same as beneficial owner information – see #8 above.

14. *What is a FinCEN Identifier and what is its purpose?*

A FinCEN Identifier is a unique identifying number that FinCEN will issue to an individual or reporting company. A reporting company may thereafter submit FinCEN Identifiers in its FinCEN filings rather than providing full reporting company, beneficial owner, or applicant information.

15. *How is a FinCEN Identifier obtained?*

An individual will obtain a FinCEN Identifier by submitting to FinCEN the same information that a beneficial owner or company applicant must submit in a beneficial owner report. See #8 above for a list of that information.

A reporting company will obtain a FinCEN Identifier by checking a box on its reporting form.

16. *What are a reporting company's obligations when information it submitted to FinCEN was inaccurate or changes?*

Changes or corrections to information submitted to FinCEN must be made within 30 days. Changes include a change in reporting company information or beneficial owner information, including a new individual becoming a beneficial owner or an existing beneficial owner's name, address, or unique identifying number.

17. *To what penalties is a reporting company that fails to satisfy its obligations under the CTA subject?*

The CTA provides for civil penalties of \$500 per day for a continuing violation, up to a maximum of \$10,000, and of up to two years' imprisonment for willful failure to report or update beneficial owner information or willfully submitting false or fraudulent beneficial owner information.