



# Ten things to know about the Corporate Transparency Act

by Jeffrey O'Brien

## TIPS

- 1. The Corporate Transparency Act** requires small businesses to file a Beneficial Ownership Information Report with the federal Financial Crimes Enforcement Network and then update it for changes to the ownership or control of the business.
- 2. The Financial Crimes Enforcement Network (FinCEN)** is a bureau of the United States Department of the Treasury that collects and analyzes information about financial transactions in order to combat domestic and international crimes.
- 3. The Beneficial Ownership Information Report** can be completed online at FinCEN's website or by a law firm on your behalf.
- 4. Reporting firms formed before January 1, 2024** have until the end of 2024 to comply. New businesses formed after January 1, 2024, have 90 days to file. Those formed after January 1, 2025 will have 30 days.

## 1. What is the Corporate Transparency Act?

The Corporate Transparency Act (CTA) is a federal law passed in 2021 as part of the National Defense Authorization Act that took effect on January 1, 2024. The CTA requires small or midsize businesses to file a Beneficial Ownership Information Report with the federal Financial Crimes Enforcement Network (FinCEN) and subsequently update that information for changes to the ownership or control of the business.

## 2. What is the purpose of the Corporate Transparency Act?

CTA's stated purpose is to prevent and fight tax fraud, money laundering, financing of terrorism and corruption.

## 3. What does the CTA require?

CTA requires small and midsize businesses that qualify to report specific information about their business's ownership interests and persons in control of the business, as well as updates whenever that information changes.

## 4. Who is FinCEN?

The Financial Crimes Enforcement Network (FinCEN) is a bureau of the United States Department of the Treasury that collects and analyzes information about financial transactions in order to combat domestic and international money laundering, terrorist financing and other financial crimes.

## 5. Is my business subject to the Corporate Transparency Act?

Millions of businesses are impacted by the CTA. Any domestic business that is registered with a state and is not deemed exempt must file a report with FinCEN. Foreign business entities registered in any state are also required to file a report with FinCEN. Effectively, this means that any business type — including but not limited to LLCs, corporations or any other entity type that requires a state filing to organize — may be required to file a report

under the new law.

If your business is registered with a state, has fewer than 20 employees or less than \$5 million in annual gross receipts, then you may be required to both file a report with the FinCEN and subsequently update that information for changes to the ownership or control of the business.

Companies that are required to file a report under the CTA are referred to as "reporting companies." The list of exempt companies that are not required to report includes mainly financial businesses and mid-to-large size businesses. The following are the exempt business types:

- Large operating company
- Inactive entity
- Tax-exempt entity
- Investment company or investment adviser
- Venture capital fund adviser
- Securities reporting issuer
- Governmental authority
- Bank
- Credit union
- Depository institution holding company
- Money services business
- Broker or dealer in securities
- Securities exchange or clearing agency
- Other Exchange Act registered entity
- Insurance company
- State-licensed insurance producer
- Commodity Exchange Act registered entity
- Accounting firm
- Public utility
- Financial market utility
- Pooled investment vehicle
- Entity assisting a tax-exempt entity
- Subsidiary of certain exempt entities

The first exemption type for "large operating company" requires a business to maintain 20 or more full time

employees and annual gross receipts of \$5 million or more. Given these narrow exemptions, millions of small businesses are now required to file a report with FinCEN and keep that information current.

## **6. What is a Beneficial Ownership Information Report?**

A Beneficial Ownership Information Report, called a BOI, contains the information required by the CTA about the ownership interests of a business. The report can be completed online at FinCEN's website or by a law firm on your behalf. The BOI report includes the names of individuals that exercise substantial control over a separate business entity or individuals who own 25 percent or more of a business entity. Owners may opt to obtain an individual identification number that can be submitted instead of their names and other identifying information.

## **7. Is there a deadline for a business to file its Beneficial Ownership Information Report with FinCEN?**

Businesses that were formed before January 1, 2024, and that are required to comply with the law, have until the end of 2024 to comply and file their report. New businesses that were formed after January 1, 2024, have 90 days to file their report. Businesses that are formed after January 1, 2025, have only 30 days to file their report.

Following the initial report, should there be any changes to the ownership structure — be it a change in ownership, gifts of equity to children, transfers to trusts, or owner address changes — you are required to report these changes to FinCEN. Any such changes must be reported within 30 days of the effective date of the change(s).

## **8. What changes does my business have to make because of the Corporate Transparency Act?**

It is unlikely the CTA will require any immediate changes to your business. The information collected is not publicly searchable. It is only available to federal agencies and state and local law enforcement.

## **9. What are the penalties for not complying with the Corporate Transparency Act?**

Qualifying businesses that fail to report within the initial reporting period of January 1, 2024 to January 1, 2025, or within 90 days after registering their business for new businesses that start in 2024, can face financial penalties of up to \$500 per day. Officers and owners of the company may also be held criminally liable and could face up to a 2-year prison sentence and a \$10,000 fine.

## **10. Does the Corporate Transparency Act require any state filings?**

The CTA requires you to file reports with FinCEN. At this time, the State of Minnesota does not require any similar report to be filed. However, states are not precluded from adopting similar laws. One state — New York — has already enacted its own separate state statute modeled after the CTA.

## **Bonus: What do you make of legal challenges to the CTA?**

There are challenges to the CTA's constitutionality, but they are not expected to be successful. Be prepared to proceed with filing as outlined above.



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