

The Corporate Transparency Act (Part 3): Reporting Requirements

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On January 1, 2021, Congress enacted the Corporate Transparency Act (the “**CTA**”) as part of the Anti-Money Laundering Act of 2020 and its annual National Defense Authorization Act. The new legislation requires certain entities to report information about their owners, management and the individuals who helped create the entities to the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“**FinCEN**”). The information reported to FinCEN is intended to assist law enforcement in combating money laundering, tax fraud, terrorist financing, and other unlawful activities that occur through shell and front companies.

This is the third article in a new series about the CTA. This edition will outline the information required to be reported to FinCEN by reporting companies and highlight the timeline for reporting such information.

Information Required to be Reported under the CTA:

The CTA mandates specific business entities, referred to as “reporting companies,” to report certain information regarding (1) the reporting company itself, (2) the reporting company’s beneficial owners (the “**Beneficial Owners**”) and (3) the individuals responsible for creating the entity or registering the entity to do business in the US (the “**Company Applicants**”).

Reporting Company Information:

Generally, an initial report must include:

- The full legal name of the reporting company;
- Any trade or “doing business as” name;

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- A complete current address of the reporting company;
 - In the case of a reporting company with a principal place of business in the US, the street address of the principal place of business; or
 - In all other cases, the street address of the primary location in the US where the reporting company conducts business;
 - The address cannot be a Post Office Box.
 - The state or jurisdiction of formation of the reporting company; and
 - The TIN or EIN of the reporting company
 - Where a foreign reporting company has not been issued a TIN, the reporting company must provide the tax identification number issued by a foreign jurisdiction and the name of the jurisdiction.

For more information related to which entities qualify as “reporting companies,” please read our other articles in this series: [The Corporate Transparency Act \(Parts 1-4\)](#).

Beneficial Owner and Company Applicant Information:

Generally, an initial report must include the following information related to all of its Beneficial Owners and two of its Company Applicants:

- The full legal name of the individual;
- The date of birth of the individual;
- A complete current address;
- A unique identifying number and the issuing jurisdiction from a non-expired identification document; and
- An image of the identification document.

For more information on who qualifies as a Beneficial Owner or Company Applicant, please read our other article in this series: [The Corporate Transparency Act \(Part 4\)](#).

Exceptions to Disclosure of Required Information:

- If a reporting company was created or registered *before* January 1, 2024, it does not have to report any information about its Company Applicants.
- If an exempt entity has an ownership interest in a reporting company and an individual is a Beneficial Owner of the reporting company exclusively by the individual’s ownership interest in the exempt entity, the report can include the name of the exempt entity in place of the

information required for the Beneficial Owner.

- *However*, this exception does not apply if the Beneficial Owner holds ownership interest in the reporting company through both exempt and non-exempt entities or if the Beneficial Owner has substantial control over the reporting company.

Deadlines for Filing:

A reporting company itself is responsible for filing the report.

- Any reporting company that is created or registered *on or after* January 1, 2024, must file a report within 30 calendar days of the earlier date on which:
 - It receives actual notice that its creation or registration has become effective; or
 - A secretary of state or similar office first provides public notice that the reporting company has been created or registered.
- Any reporting company that is created or registered *before* January 1, 2024, must file a report no later than January 1, 2025.
- Reports will not be accepted prior to January 1, 2024.

Requirement to Update Reports:

A reporting company itself is responsible for updating and correcting any changes to the previously reported information about the reporting company and its Beneficial Owners. There is no materiality threshold or annual filing requirement; a reporting company must report any and all changes to the required information.

- If there is any change to the previously reported information concerning a reporting company or its Beneficial Owners, including any change regarding who is a Beneficial Owner, an updated report must be filed within 30 calendar days after the change.
 - If an individual is a future Beneficial Owner by property interests or other rights subject to transfer upon death, an updated report must be filed within 30 calendar days after the estate of the deceased Beneficial Owner is settled.
 - A reporting company does *not* have to file an updated report regarding any changes to the previously reported Company Applicant information.
 - A reporting company does *not* have to file an updated report upon its termination or dissolution.
- If a reporting company meets the criteria for any exemption after filing a report, an updated report must be filed within 30 calendar days after meeting the criteria.
- If any report was inaccurate when filed and remains inaccurate, a corrected report must be

filed within (a) 30 calendar days after the reporting company becomes aware or has reason to know of the inaccuracy and (b) 90 calendar days after the inaccurate report was filed.

Who has access to the reported information?

- The information provided to FinCEN will be maintained in a secure, nonpublic database.
- FinCEN can only disclose the reported information upon request from certain (a) governmental agencies and regulators or (b) financial institutions who obtain the consent of the reporting company.

Penalties for Failure to Comply:

The CTA provides for civil and criminal penalties for any person who willfully (a) provides or attempts to provide false or fraudulent information, including false or fraudulent documentation, or (b) fails to report complete or updated information to FinCEN.

- A civil penalty of up to \$500 per day may be imposed for each day that a violation continues until the violation is remedied. A criminal fine of up to \$10,000 and/or imprisonment of up to two years may also be imposed.
- A person fails to report complete or updated information about a reporting company if (a) the reporting company is required to report information to FinCEN, (b) the reporting company fails to report such information to FinCEN, and (c) the person either causes the failure or is a senior officer of the reporting company at the time of the failure.

Safe Harbor Period:

- For updates, a reporting company must update its report within 30 calendar days after a change in the previously reported information.
- For corrections, a reporting company must correct its report within (a) 30 calendar days from becoming aware or having reason to know of any inaccuracy in the previously reported information and (b) 90 days from the submission of the inaccurate report.
- The safe harbor period does not apply to any individual or reporting company that, at the time of the application, (a) acted to evade the reporting requirements or (b) had actual knowledge that any information contained in the report is inaccurate.

FinCEN is currently in the process of creating the specific reporting system and additional regulations surrounding the CTA. Therefore, the information discussed in this article is subject to change.

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