

Inside the Corporate Transparency Act



Why you, as a business owner or investor, need to know about this new federal reporting obligation.

A new federal law requires businesses and their owners to disclose personal information and their photographs to a federal law enforcement agency, and there are only a few exceptions.

Why this matters for you. From Wall Street to Main Street to your street, the vast majority of private and many non-profit entities will be swept into Corporate Transparency Act compliance. If you are an investor or have investors, you need to pay attention. Not only is reporting important, so is ongoing compliance.

What is this law about? If you have not heard of the CTA, you are not alone. Many business owners, and their professional advisors, are taken aback upon first learning of its existence and scope. At its core, the CTA requires reporting of personal direct and indirect beneficial ownership and control information pertaining to businesses operating in the U.S. The personal identifying information includes name, date of birth, physical home address, and your photograph. The financial crimes enforcement arm of the U.S. Department of Treasury (FinCEN) is currently building out a secure system to receive, store, and manage this vast influx of information. FinCEN estimates that more than 32 million now-existing businesses will be required to report in Year One. This law aims to prevent money laundering, illicit financial activities, corrupt practices, and terrorist financing at the expense of your business being swept up in its bycatch.

Who must report? Beginning Jan. 1, 2024, that personal information must be reported for those owning, directly or indirectly, 25 percent or more of the business or who have “substantial control” over the business. Every business will have at least one person to report, regardless of its ownership or control structure. Once the initial report is filed, this information must be updated within 30 days of any subsequent event that makes the previously reported information inaccurate. Attribution of ownership and what constitutes substantial control will vary from business to business and will require analysis and professional advice.

Exempt Entities. Some categories of business entities are exempted from CTA compliance. These generally include regulated business entities, such as publicly traded companies, insurance businesses, banking businesses, 501(c) registered non-profit entities and quasi-governmental organizations. In addition to the other exempt categories, a catch-all exemption is available for any business entity that meets all three of the following thresholds: (1) have a physical street address in the U.S., (2) have 21 or more full-time employees, and (3) generate more than \$5 million in annual gross receipts as reported on last year’s federal tax return. Missing any of these thresholds will render a business ineligible for this exemption.

What will compliance look like?

Businesses will need to compile, maintain and update their reported information constantly to meet the CTA’s compliance requirements. Any change to or correction of previously reported information must be done within 30 days of the event, not when the business becomes aware of the event. All newly formed business entities beginning Jan. 1, 2024, will be required to file their initial CTA report within 30 calendar days of formation. Reporting company businesses in existence before Jan. 1, 2024, will have one year to make their original CTA report filing, along with any subsequent amendment filings that would have been required had the report been filed on Jan. 1, 2024.

What happens if you don’t comply?

There are steep fines (\$500 per day up to \$10,000) per incident and possible jail time (up to two years) for those failing to timely and properly comply with the CTA. Those who fail to file their initial report will also be subject to fines for failing to file what should have been subsequent filings—the fines can rack up. Further, the IRS recently announced increased enforcement, utilizing new data analytics technology to identify audit targets. FinCEN’s database will be a key component for such data analytics technology.

Who may access FinCEN’s Beneficial Ownership Secure System (BOSS)? Information in the BOSS will be accessible to law enforcement at the federal, state, and local levels and includes the law-enforcement arms of various federal agencies. Financial institutions may also have access upon their customer’s consent. Importantly, this information is not available to the general public and is not accessible through Freedom of Information Act requests.

Conclusion. The compliance requirements under the CTA go live Jan. 1, 2024, and you have only the remaining waning months of this year to take any action to influence your future compliance position. Now is the time to discuss this with your legal team for guidance. **1**

Every business will have at least one person to report, regardless of its ownership or control structure.

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