

Summary Overview: 3 Steps to CTA Compliance

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The material set forth below was developed before the 2024 and 2025 district court injunctions regarding the CTA (which were subsequently stayed and continue to be litigated). As a result, the material set forth below, including filing deadlines, may not be current. Please consult FinCEN's [website](#) for the latest filing due dates and other information regarding the CTA and its requirements.

The January 1, 2025, compliance deadline for Corporate Transparency Act (CTA) filings for certain entities that were formed or registered to do business in the U.S. before 2024 is approaching quickly for many business owners. Given that the CTA is a relatively new law, which took effect on January 1, 2024, and requires analysis and potential filings that can feel burdensome, many reporting companies have chosen to wait until later in the year in the hopes that the law would be overturned. Throughout 2024, plaintiffs in various states have fought (and continue to fight) the law in court on various causes of action. Despite a holding earlier this year by the U.S. District Court for the Northern District of Alabama that the CTA is unconstitutional, which is now under appeal, the analysis and reporting duties imposed by the CTA remain applicable to most reporting companies. Given the lack of widespread success of cases challenging the CTA to date and the continued public outreach efforts of the Financial Crimes Enforcement Network (FinCEN), the CTA seems here to stay.

We expect the rush of filings in December to be significant, so we are publishing this article now to help companies move on this quickly and ensure timely filings. This article provides a high-level overview of the three-step process for compliance with any Beneficial Ownership Information Report (BOIR) filing requirements. This process must be completed on an entity-by-entity basis within an organizational structure as the reporting requirements apply to individual entities:

1. Determine whether the entity meets the threshold definition of "reporting company" under the CTA (i.e., whether the CTA is applicable to the entity in the first place) and if so, whether an exemption from the reporting requirements applies.
2. For a nonexempt reporting company, identify the beneficial owners of the reporting company and the company applicants (if applicable) and collect the relevant information for the reporting company's BOIR.
3. Timely file the reporting company's BOIR.

These steps are covered in greater detail by [Troutman Pepper](#) and FinCEN through, among other resources, a [helpful guide](#) and [FAQs](#).^[1]

STEP 1: DETERMINE IF THE ENTITY IS A REPORTING COMPANY AND WHETHER A CTA EXEMPTION

APPLIES.

A company is a “reporting company” if it is a corporation, LLC, limited partnership, or other entity created in the U.S. by filing a document with a secretary of state or similar office, or a foreign company registered to do business in any U.S. state or tribal jurisdiction by such a filing. There are 23 exemptions from the CTA’s reporting requirements, each with its own specific requirements and limitations, which in some cases are discussed in greater detail in FAQs published by FinCEN. Generally, exemptions can apply to publicly traded companies, large operating companies, nonprofits, banks, credit unions, venture capital funds, public utilities, insurance companies, registered investment advisers, and wholly owned and controlled subsidiaries of certain qualifying parent entities, among others. Each company should conduct a careful reading of any potentially relevant exemption, and additional information can be found on [FinCEN’s FAQ page](#).

If a company qualifies for one of the exemptions, it does not need to make a filing to prove exemption. For good measure, we recommend that the company draft a memo documenting the analysis and the conditions which, if changed, would require the company to file a BOIR with FinCEN. If a reporting company does not fit an exemption, then it should follow Steps 2 and 3 listed below.

It is important to note that FinCEN has said that certain dissolved entities must file BOIRs. If a reporting company “formally and irrevocably” dissolves on January 1, 2024, or later, it must file a BOIR, even if it completes the formal and irrevocable dissolution before its initial reporting deadline. We have described this situation in greater detail [here](#). Similarly, reporting companies that have administratively dissolved or been suspended, even before 2024, but have not “formally and irrevocably” dissolved, will be subject to the reporting requirements until such dissolution or suspension becomes permanent.

STEP 2: IDENTIFY THE BENEFICIAL OWNERS OF THE REPORTING COMPANY, AND COLLECT THEIR INFORMATION OR FINCEN ID.

Identifying Beneficial Owners

Each nonexempt reporting company is responsible for filing its BOIR with FinCEN to disclose its beneficial owners. Under the CTA, there are two categories of beneficial owners:

1. Individuals who, directly or indirectly, own or control 25% or more of the ownership interests of a reporting company. Note:
 - a. Ownership Interests can take many forms and a reporting company can have more than one type of ownership interest. Ownership interests include equity interests, voting rights, capital interests, profits interests, options, and nonbinding privileges to buy or sell any of the foregoing, to name a few.
 - b. Since FinCEN’s definition of “ownership interest” is quite expansive, it should be interpreted broadly when considering the universe of a reporting company’s particular ownership interests.

AND/OR

2. Individuals who, directly or indirectly, have substantial control over the reporting company, including managers,

senior officers, and people with controlling decision-making power or controlling voting power. Note:

- a. An individual exercises substantial control over a reporting company if the individual meets any of four general criteria: (1) the individual is a senior officer; (2) the individual has authority to appoint or remove senior officers or a majority of directors of the reporting company; (3) the individual directs, determines, or has substantial influence over important decisions made by the reporting company; or (4) the individual has any other form of substantial control over the reporting company.
- b. There is no limit to the number of individuals who can be reported for exercising substantial control and an analysis of the particular facts and circumstances will be crucial in determining substantial control.

If any individual meets *either* of these categories, then the individual is considered a beneficial owner of the reporting company and should be reported on the entity's BOIR. Reported beneficial owners generally must be human beings, so the CTA requires reporting companies to look through entities to find the ultimate owners. Reporting companies should review the specific information and guidance as to who may qualify as a beneficial owner found in [FinCEN's Small Entity Compliance Guide](#) and [FinCEN's BOI page](#).

Identifying Company Applicants

Domestic reporting companies that were created on or after January 1, 2024, and foreign companies that registered to do business in the U.S. after that date, also need to report information about each "company applicant." The company applicant(s) will be one or two people and will at a minimum include the person who directly filed the document that created or registered the reporting company with the secretary of state or similar office (the "direct filer"). Where a person other than the direct filer was primarily responsible for directing or controlling the filing of the creation or registration document, then that second person also qualifies as a company applicant and must be reported.

Checklist

Information about beneficial owners (and company applicants for the companies formed or registered in 2024 and later)

After a nonexempt reporting company has made its determination of its beneficial owners and company applicants (if applicable), it should collect the following information about each individual:

- FinCEN ID (see below for more info)
- OR
 - Full legal name
 - Date of birth
 - Current address (A company applicant who forms or registers an entity in the course of such company

applicant's business must report the street address of such business. All other beneficial owners and applicants must report their residential address.)

- ID number and jurisdiction from an unexpired government-issued ID: (i) U.S. passport, (ii) U.S. driver's license, (iii) other ID issued by U.S. state or local government or, (iv) for anyone with none of the foregoing, a non-U.S. passport
- Image of the government-issued ID (JPEG or PNG, 4 MB max)

Information about the Reporting Company

Reporting companies will also need to include the following basic identifying information about the company itself in the filing:

- Legal Name
- Any trade names or dba names
- Current street address of principal place of business in U.S.
- Jurisdiction of formation/registration
- Taxpayer Identification Number or EIN (if a foreign reporting company has not been issued a TIN, it should report a tax identification number issued by a foreign jurisdiction and the name of the jurisdiction)

Privacy

Clients often wonder: who has access to this information? It will not be publicly available; however, it will be accessible to certain federal agencies, Treasury personnel, state, local and tribal law enforcement, financial institutions, federal functional regulators and other regulatory agencies and certain foreign requesters. It will not be accessible through the Freedom of Information Act.

FinCEN ID

As an option, beneficial owners and company applicants can make a secure account at Login.gov, upload their personal information directly to FinCEN, and receive a free FinCEN ID number, which they can provide to a reporting company for inclusion in the company's BOIR. We have found that this often boosts the efficiency and privacy of initial filings because the company does not have to store and upload all the beneficial ownership information. Also, a FinCEN ID enhances the convenience of ongoing updates because when the individual's information changes, such as when they move to a new address or get a new passport, then they simply update the information in their personal Login.gov account, and the information is automatically applied to each BOIR where their FinCEN ID was reported. Alternatively, if an individual does not obtain a FinCEN ID and then moves to

a new address, for example, then each reporting company for which the individual was a reported beneficial owner would need to update its BOIR to reflect the individual's new address, which can take some time and create a tracking burden. A FinCEN ID is particularly helpful where the same beneficial owner is involved in multiple reports. Applying for a FinCEN ID involves a relatively simple process of uploading information to FinCEN through this secure website: [FinCEN ID | FiNCEN.gov](https://www.fincen.gov).

STEP 3. FILE THE FINCEN BENEFICIAL OWNERSHIP INFORMATION REPORT.

Filing can be done via [FinCEN's website](https://www.fincen.gov). The filing can be made via a fillable PDF that is uploaded and submitted or through a form in a web browser. There is no filing fee if the report is filed directly with FinCEN. Alternatively, reporting companies can utilize third-party service providers which can assist with filing, including software tools that can ease the burden of making multiple BOIR filings.

Note that when a BOIR is filed with FinCEN, the only confirmation a reporting company receives is a transcript. Companies should retain a copy of this transcript in their records as there is currently no other way to review or confirm filing status.

Deadlines

Entities that existed or were registered to do business in the U.S. before January 1, 2024, have until January 1, 2025, to file. Entities formed or registered during 2024 have 90 calendar days after receiving actual or public notice that their creation or registration was effective to file. Entities formed or registered on or after January 1, 2025, have 30 calendar days after receiving actual or public notice that their creation or registration is effective to file. We encourage entities to file their BOIRs well before their deadlines as there are no assurances that FinCEN can handle a significant volume of filings at the time that a reporting company may first try to file. A reporting company should plan ahead to ensure timely filing compliance.

Ongoing Updates

After a reporting company files its initial BOIR, there is no annual reporting requirement. However, each reporting company must update its BOIR within 30 days of any change to the information reported. For example, if a company has a change in its address, jurisdiction, or beneficial owners, then it would need to update its BOIR with FinCEN. Further, changes in exempt status must be reported. If a company files its initial report and later meets an exemption, it must file an updated report to note that it is exempt. Similarly, if a company initially qualified for an exemption but then the status of the company changed and it no longer qualified for any exemption, then it would have 30 days to file its initial BOIR. As a case in point, this could happen if a company qualified for the large operating company exemption in 2024 because it could demonstrate more than \$5 million in gross receipts and more than 20 full-time employees at a U.S. office, but then it only earned \$4 million in 2025. When it no longer qualifies for the large operating company exemption, and assuming no other exemption applies, it would need to file an initial BOIR with FinCEN.

On the individual side, if an individual beneficial owner did not provide a FinCEN ID and there has been a change in the beneficial owner's reported information, such as a change in legal name or address, the reporting company would have to amend its BOIR to provide updated information. However, if a beneficial owner provides a company with a FinCEN ID, then it is that *specific beneficial owner*, rather than the reporting company, who is responsible

for keeping their own information current with FinCEN within 30 days of any change.

Company applicant information reported in a BOIR does not need to be updated over time. However, company applicants with a FinCEN ID must keep their information updated within 30 days of any change.

We suggest that the reporting company put in place a compliance process or reminder mechanism to ensure that individuals are periodically reminded of the need to promptly update their information with FinCEN (if they have a FinCEN ID) or with the reporting company, as applicable.

Further Resources

For further information regarding the CTA, we recommend the following resources:

- [FinCEN Brochure on the CTA](#)
- [Troutman Pepper Overview of the CTA](#)
- [FinCEN Beneficial Ownership Small Entity Compliance Guide](#)

[1] This client alert is a limited summary regarding a nonexempt reporting company's initial BOIR filing and does not address many relevant CTA topics or provide detailed analysis relevant to a reporting company's compliance with the CTA. For broader coverage of the CTA please see our [Troutman CTA page](#) and [FinCEN's CTA page](#) for several relevant resources which may be helpful to nonexempt reporting companies and their awareness of the CTA's requirements and relevant issues, both with respect to initial filings and any updates.

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