

WHAT YOU NEED TO KNOW ABOUT THE CORPORATE TRANSPARENCY ACT (CTA)



WHAT DOES THE CTA DO?

CTA establishes new beneficial ownership reporting requirements for a wide range of businesses. It also establishes a new, centralized beneficial ownership registry to be maintained by the U.S. Treasury Dept's Financial Crimes Enforcement Network (FinCEN). Its purpose is to assist government officials in combating money laundering, terrorism financing, human and drug trafficking, sanctions evasion and other financial crimes. Many companies will be required to file initial reports disclosing their beneficial owners commencing anytime after **January 1, 2024** and no later than **December 31, 2024**.



WHO MUST REPORT?

A "reporting company" is defined as a corporation, limited liability company or other similar entity, other than an exempt entity, that is created either:

- By the filing of a document with a secretary of state or similar office under the law of a State or Indian tribe (defined in the CTA Regulations as a "domestic reporting company") or
- Under the law of a foreign country and registered to do business in the United States by the filing of a document with a secretary of state or similar office under the law of a State or Indian tribe (defined in the Regulations as "foreign reporting company").



WHO IS EXEMPT?

The Act specifically excludes 23 types of entities from the definition of reporting company and authorizes FinCEN to exempt additional entities. The exemptions include mostly regulated entities that are already required to report beneficial ownership information to their respective regulators, including banks, broker dealers, insurance companies and other financial firms. In addition, tax-exempt entities and companies that meet the definition of "Large Operating Companies" do not need to file reports. A Large Operating Company is any entity that:

- Employs more than 20 full-time employees in the U.S.,
- Has an operating presence at a physical office within the U.S., and
- Has filed a federal income tax return or information return in the U.S. for the previous year demonstrating more than \$5,000,000 in gross receipts or sales in the aggregate.

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WHAT MUST BE REPORTED?

Each reporting company must provide its name, any trade name or dba, jurisdiction of formation, address, tax ID, and the following information concerning each beneficial owner and company applicant:

- Each beneficial owner must provide his or her name, date of birth (DOB), home address, and image of an identifying document issued to such individual with a unique identifying number, such as a driver's license or passport.
- Company applicant information is required for each company formed or qualified on or after **January 1, 2024**, including name, DOB, address, and image of an identifying document issued to such individual with unique identifying number. This is the person or persons (up to two) primarily responsible for directing or controlling the formation of the entity and the filing of organization documents with the state agency.
- Changes (updates) to the reporting company and beneficial owner filed information must be reported within 30 calendar days after the date of the change. Updates of applicant information are not required.



WHO IS A BENEFICIAL OWNER?

Any one or more individuals who (i) exercises substantial control over the company, including senior officers, or (ii) directly or indirectly owns or controls at least 25% of the ownership interest in the entity.



WHAT IF A COMPANY FAILS TO REPORT?

The CTA provides for civil and criminal penalties, including civil fines of up to \$500 per day and incarceration of up to two years and a \$10,000 fine.



HOW ARE THE BENEFICIAL OWNER REPORTS TO BE FILED?

FinCEN has announced that it will be establishing an online system for filing the beneficial owner reports and any updates to same. There is no fee associated with the filing of the reports. While reporting companies can file this information themselves, commercial firms will also handle these filings for a fee.

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WHAT DO I NEED TO DO TO ARRANGE FOR FILING OF THE BENEFICIAL OWNER REPORTS?

Offit Kurman recommends that if you have the necessary information and understand the requirements under the CTA you file the beneficial ownership reports on the FinCEN website once it becomes available on **January 1, 2024**. Alternatively, you may use a commercial firm to prepare the beneficial owner reports as these companies have been in contact with FinCEN on technical requirements and will have the most up-to-date information on the procedure for filing these reports. Some of these firms also offer corporate information and tracking databases that have the capacity to send out reminders when information changes that will require the filing of an update to the filed information with FinCEN.

Offit Kurman has been in contact with certain of these commercial firms, but undoubtedly additional firms will enter this marketplace. Offit Kurman does not recommend or endorse any single firm and urges clients to do their own investigation as to the cost and services provided because these do differ depending on the particular firm as well as the size of the client and number of filings. A list of the commercial firms and the services that they offer that we are aware of will be available in January.



WHERE CAN I FIND MORE INFORMATION ON THE CTA?

FinCEN has published a [Small Business Entity Compliance Guide](#) (the “Guide”) to help companies comply with the reporting obligations.

The Guide addresses the following six key questions:

1. Does my company have to report its owners?
2. Who is a beneficial owner of my company?
3. Does my company need to report its company applicants?
4. What specific information does my company need to report?
5. When and how should my company file its initial BOI report?
6. What if there are changes to or inaccuracies in reported information?

FinCEN has issued [frequently asked questions](#) (FAQs) to address specific questions on the topic. More information about the CTA can be found at [FinCEN's website](#).