

WEBINAR

Reporting Obligations under the Corporate Transparency Act

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Presented on
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Reporting Obligations under the Corporate Transparency Act

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Introduction

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Outline



- What is the CTA?
 - What it Means for Businesses
- The Purpose of the CTA
 - AML
- Compliance with CTA Disclosure Requirements
 - Exemptions
 - Reporting Procedure
 - Timing
 - Penalties
- Problems
 - Required Reporters
 - Possible Loopholes
 - Identity Theft
- Questions

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What is the Corporate Transparency Act?



- 31 U.S.C. §5336
- Federal statute that provides for the reporting and collection of beneficial ownership information for applicable entities
- Stated purpose is to target “malign actors” and combat money laundering, terrorism financing, tax fraud and other illicit activities

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What It Means For Business



- Current system in most states requires disclosure of name and contact address for persons with management authority in limited liability entities:

Corporations – Officers and Directors

LLC – Managers

LP – General Partner

This disclosure is at the state level, usually by filing with the relevant Secretary of State

- Under the CTA, these entities, plus any other created by filing with a Secretary of State, or foreign company registered to do business in the US, must file with FinCEN, a Federal agency under the Department of Treasury.
- More extensive disclosure than currently required by states.

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Most Asked Questions:



- Why?
- Why now?



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Money Laundering - Introduction



- Definition: The process of making illegally-gained proceeds (i.e., "dirty money") appear legal (i.e., "clean")
- Three Stages of Money Laundering



Placement



Layering



Integration

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Money Laundering – Predicate Crime



- Narcotics
- Fraud
- Tax Evasion
- Human Trafficking
- Terrorism

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Money Laundering – Placement



The physical disposal of cash proceeds from illegal activity into the financial system

- Structuring cash deposits in amounts below \$10,000 to avoid the bank's reporting requirements under the Bank Secrecy Act.
- Smuggling cash by physically transporting large amounts of cash across international borders, either in person or through intermediaries.
- Investing in legitimate assets, e.g., purchasing real estate, businesses, or other assets with cash generated from illegal activity.
- Purchasing high-value items or luxury goods, such as jewelry or art, with cash obtained from illegal activity.
- Paying bills or debts such as credit card debts or other obligations with cash generated from illegal activity.

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Money Laundering – Layering



The separation of illicit proceeds from their source by creating complex layers of financial transactions designed to confuse authorities

- Transferring funds through multiple bank accounts in different countries or jurisdictions, to create a complex trail that is difficult to trace.
- Conducting multiple financial transactions involving the movement of funds in and out of various accounts, to obscure the source of the funds.
- Using shell companies or nominee accounts to hide the true ownership of the funds.
- Investing in complex financial products, such as derivatives or offshore investment vehicles, in order to create a complex web of transactions that is difficult to unravel.
- Converting funds into different currencies, and then moving them through multiple accounts, to further complicate the trail.

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Money Laundering – Integration



Bringing the laundered proceeds back into the economy so they can be used without detection

- Investing in legitimate businesses, such as restaurants, hotels, or retail stores, and receiving the proceeds as legitimate profits.
- Purchasing real estate, and then renting or selling the property to receive legitimate income.
- Creating false loans to a business, and then repaying the loans with the laundered funds, to create the appearance of legitimate transactions.
- Mixing the funds with legitimate funds, and then using the combined funds to make investments or purchases.
- Purchasing high-value assets, such as yachts or private jets, and then selling or leasing the assets to receive legitimate income.

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Anti-Money Laundering (AML) Enforcement



In the US

- FinCEN – Financial Crimes Enforcement Network (US Dept of the Treasury)
- Bank Secrecy Act, aka AML Law
 - Recordkeeping and Reporting Requirement
 - SAR – FinCEN Form 114, CTR for \$10,000, KYC
- MLCA
 - Criminalizes money laundering
 - AML Programs
 - Amended by USA PATRIOT Act

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Anti-Money Laundering (AML) Enforcement



Internationally

- FATF – Financial Action Task Force
- Established in 1989 by the G7; currently 39 member countries
- Evaluates AML and CTF programs in member countries
- **Prior to implementation of the CTA, the US was one of the few member countries that did not require disclosure of the identities of equity owners.**

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The Corporate Transparency Act



The CTA requires all non-exempt reporting companies to file a Beneficial Ownership Information Report with the Financial Crimes Enforcement Network.

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Reporting Companies



Subject to exemptions, a reporting company is a corporation, limited liability company or similar entity

- a) Created by filing of a document with a secretary of state or similar office under the law of a State or Indian Tribe; or
- b) Formed under the law of a foreign entity and registered to do business in the United States by the filing of a documents with a secretary of state or a similar office under the laws of a State or Indian Tribe;

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Exemptions; Regulated Entities



- Securities Reporting Issuers
- Governmental Authorities
- Banks
- Credit Unions
- Depository Institution Holding Companies
- Money Services Businesses
- Brokers and Dealers in Securities
- Securities Exchanges and Clearing Agencies
- Other Exchange Act Registered Entities
- Investment Companies and Investment Advisors
- Venture Capital Fund Advisers
- Insurance Companies
- State-Licensed Insurance Producers
- Commodity Exchange Act Registered Entities
- Accounting Firms
- Public Utilities
- Financial Market Utilities
- Pooled Investment Vehicles

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Exemptions; Tax-Exempt Entities



Certain tax-exempt entities including

- a) Entities qualifying on 501(c) of the IRC;
- b) Political organizations exempt under 527(a) of the IRC;
- c) Trusts described in paragraph (1) or (2) of section 4947 of the IRC

Certain US entities that operate exclusively to operate or benefit entities that qualify as exempt as described above

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Exemptions



Inactive Entities and Large Operating Companies

Inactive Entities

- a) in existence for more than 1 year;
- b) not engaged in active business
- c) not owned, directly or indirectly, by a foreign person,
- d) has not experienced change in ownership or sent or received funds in excess of \$1,000 in the past 12 months, and
- e) does not hold assets

Large Operating Entities

- a) 20 or more full-time employees in the US,
- b) had gross receipts or sales in the US in excess of \$5.0 million in prior years federal tax filing, and
- c) has an operating presence and physical office in US

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Beneficial Ownership Information Report

Home Reporting Company Company Applicant(s) Beneficial Owner(s)

Beneficial Ownership Information Report Version Number: 1.0

OMB No. 1506-0076 Release Date: 01-01-2024

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Report Preparation & Submission Instructions:

Instructions	1. Complete the report in its entirety with all required information. Click Instructions for help.
Validate	2. Click Validate to ensure all entered data is properly formatted and that all required fields are completed.
Finalize	3. Click Finalize to lock the entries in the report and prepare it for submission. Click Edit Report to unlock and re-edit.
Save	4. Click Save to retain a local copy of the report (this can be done at any time during report preparation).
Print	5. (Optional) Click Print to print a hard copy of your completed report.
Ready To File	6. Select Ready to File (activated after the report is finalized and saved locally) to begin the submission process.

Filing Information

1. *Type of filing:

a. Initial report	<input type="checkbox"/>
b. Correct prior report	<input type="checkbox"/>
c. Update prior report	<input type="checkbox"/>
d. Newly exempt entity	<input type="checkbox"/>

Reporting Company information associated with most recent report, if any:

e. Legal name	<input type="text"/>
f. Tax identification type	<input type="text"/>
g. Tax identification number	<input type="text"/>
h. Country/Jurisdiction (if foreign tax ID only)	<input type="text"/>

2. Date prepared (auto-filled when form is finalized)

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Beneficial Ownership Information Report

Home Reporting Company Company Applicant(s) Beneficial Owner(s)

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Part I. Reporting Company Information

3. Request to receive FinCEN Identifier (FinCEN ID)

4. Foreign pooled investment vehicle

Full legal name and alternate name(s):

5. * Reporting Company legal name

6. Alternate name (e.g. trade name, DBA)

Form of Identification:

7. * Tax identification type

8. * Tax identification number

9. Country/Jurisdiction (if foreign tax ID only)

Jurisdiction of formation or first registration:

10. a. Country/Jurisdiction of formation

Domestic Reporting Company:

b. State of formation

c. Tribal jurisdiction of formation

d. Name of the other Tribe

Foreign Reporting Company:

e. State of first registration

f. Tribal jurisdiction of first registration

g. Name of the other Tribe

Current U.S. Address:

11. * Address (number, street, and apt. or suite no.)

12. * City

13. * U.S. or U.S. Territory

14. * State

15. * ZIP Code

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Beneficial Ownership Information Report

Home
Reporting Company
Company Applicant(s)
Beneficial Owner(s)

16. Existing Reporting Company (check if Reporting Company was created or registered before January 1, 2024)

17. (This item is reserved for future use)

Part II. Company Applicant Information 1 of 1

Company Applicant FinCEN ID:

18. FinCEN ID

Full legal name and date of birth:

19. * Individual's last name

20. * First name

21. Middle name

22. Suffix

23. * Date of birth

Current address:

24. * Address type a. Business address b. Residential address

25. * Address (number, street, and apt. or suite no.)

26. * City

27. * Country/Jurisdiction

28. * State

29. * ZIP/Foreign postal code

Form of identification and issuing jurisdiction:

30. * Identifying document type

31. * Identifying document number

32. * Identifying document issuing jurisdiction:


a. Country/Jurisdiction

b. State

c. Local/Tribal

d. Other local/Tribal description

33. * Identifying document image




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Acceptable Identification Documents

- a) Non-expired passport issued by the United States;
- b) Non-expired identification document issues by a State, local government or Indian Tribe to the individual acting for the purpose of identification of that individual;
- c) Non-expired driver's license issued by a State; or
- d) If the individual does not have a document described [above], a non-expired passport issued by a foreign government



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Beneficial Ownership Information Report

Home
Reporting Company
Company Applicant(s)
Beneficial Owner(s)

34. *(This item is reserved for future use)*

Part III. Beneficial Owner Information 1 of 1

35. Parent/Guardian information instead of minor child *(check if the Beneficial Owner is a minor child and the parent/guardian information is provided instead)*

Beneficial Owner FinCEN ID:

36. FinCEN ID

Exempt entity:

37. Exempt entity

Full legal name and date of birth:

38. * Individual's last name or entity's legal name.

39. * First name

40. Middle name

41. Suffix

42. * Date of birth

Residential address:

43. * Address (number, street, and apt. or suite no.)

44. * City

45. * Country/Jurisdiction

46. * State

47. * ZIP/Foreign postal code

Form of identification and issuing jurisdiction:

48. * Identifying document type

49. * Identifying document number

50. * Identifying document issuing jurisdiction:


a. Country/Jurisdiction

b. State

c. Local/Tribal

d. Other local/Tribal description

51. * Identifying document image




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When Do Companies Need to File?

- a) Companies existing before January 1, 2024:
by December 31, 2024
- b) Companies formed between January 1, 2024 and December 31, 2024:
within 90 days of formation
- c) Companies form on or after January 1, 2025:
within 30 days of formation



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Making Changes and Corrections



Companies need to make changes and corrections to their BOI reports within 30 days of

- the occurrence of such change
- becoming aware of the inaccuracy

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Penalties



Civil and criminal penalties may be imposed for failure to file or filing fraudulent information, including:

- Penalties of up to \$500 per day for failure to file,
- Imprisonment for up to 2 years and
- Fines of up to \$10,000

Senior officers failing to file may be held liable under the statute.

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Keeping Current



- Equity Transfers
- Changes of Control Persons
- Changing Status of Entities
- Name Changes
- Changes of Address

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Problems



- Loss of Contact
- Lack of Cooperation
- Unauthorized or Unlicensed Practice of Law
 - Some CPA Carriers refusing to cover
 - State vs. Federal – Supremacy Clause
- Identity Theft
- 25% Ownership Threshold

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Conclusion



- How We Can Help
- Questions

Thank You For Attending!



Contact Us



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