

The Corporate Transparency Act

What to Know if You Have an LLC or Limited Partnership

Many of our clients have Limited Partnerships or LLCs that they use for a variety of purposes, such as to hold a family beach house, to conduct a small business or manage a pool of securities. All of these types of closely-held business entities are subject to a new reporting regime known as the Corporate Transparency Act (or “CTA”). Under the new law, detailed reports of the entity’s beneficial ownership must be submitted to the Financial Crimes Enforcement Network (or “FinCEN”). The law was enacted to combat terrorism, money-laundering and other financial crimes. It is estimated that over 30 million entities are covered by the new law. The deadline for compliance for existing entities (January 1, 2025) is fast approaching. While much has already been reported about these new rules, we thought it would be helpful to remind you of what the CTA is and what you need do to comply.

– Harry O’Mealia, CEO

What Is the Corporate Transparency Act?

On January 1, 2021, Congress enacted the Corporate Transparency Act (“CTA”) – interestingly, the CTA was enacted during the lame-duck session following the 2020 election by overriding President Trump’s veto of the bill. The CTA was intended to bring the United States more in line with the rest of the developed world to combat money-laundering by providing law enforcement with transparency into who is behind otherwise opaque entities, such as limited partnerships (LPs), Limited Liability Companies (LLCs) and corporations. Under the CTA, a reporting company must report certain beneficial ownership information (“BOI”) to [FinCEN](#) (The Financial Crimes Enforcement Network, an arm of the U.S. Department of the Treasury).

Who Is Required to Report?

Generally, the persons with the responsibility to report to FinCEN are the “company applicant” and “beneficial owners.” The company applicant is the person who actually filed the document that created the legal entity or registered the foreign entity or the individual that is primarily responsible for directing another person to file the documents. In some cases, this could be an employee at a law firm (or even a former employee). The regulations state that “if a reporting company was created or registered before January 1, 2024, the reporting company shall report that fact, but is not required to report information with respect to any company applicant.” Nevertheless, it’s clear that managers of an LLC are responsible for making sure the report is filed.

Which Entities are Required to Report?

A “reporting company” is defined as any corporation, limited liability company, or similar entity that is:

1. created by filing a formation document with the secretary of state or a similar office under the laws of a U.S. state or American Indian tribe, or
2. is formed under the law of a foreign country and has registered to conduct business in the United States by filing a document with the secretary of state or a similar office.

While the definition of “reporting company” is broad, there are 23 exemptions to the definition, including:

- Public companies
- Certain highly regulated financial institutions, such as banks, credit unions, brokers, dealers, and exchanges and clearing agencies
- Investment companies and investment advisers (RIAs)
- Insurance companies operating within the United States
- Public utility companies
- Accounting firms
- Pooled investment vehicles
- Tax-exempt entities
- Larger U.S.-based operating companies, i.e., ones that
 - employ more than 20 employees,
 - filed a federal tax return demonstrating more than \$5 million in gross receipts or
 - have an operating presence within the United States
- Wholly owned subsidiaries of certain exempt entities
- Inactive entities¹

What about Trusts, General Partnerships and Sole Proprietorships?

Generally, personal trusts, general partnerships and sole proprietorships are exempt from reporting under the CTA because they were formed without having to file any organizing documents with the secretary of state. However, if a trust or general partnership is a beneficial owner of a reporting company, the trustee, beneficiaries and/or partners may need to report BOI to FinCEN.

What Is Required to Be Reported?

Reporting companies must file a report with FinCEN containing the following information with respect to the entity:

- Full legal name
- Any trade names or “doing business as” (DBA) names
- Complete current address of principal place of business in the United States (if a domestic reporting company) or primary location in the United States where the company conducts business (if a foreign reporting company)
- Jurisdiction of formation
- The state or tribal jurisdiction where the company first registers (if a foreign reporting company)
- Taxpayer ID

Additionally, reporting companies must report the following information for each beneficial owner:

- Full legal name
- Date of birth
- Current residential or business street address
- An image of one of the following (including the unique identifying number and issuing jurisdiction):
 - U.S. passport
 - State driver’s license
 - Identification document issued by a state, local government, or tribe
 - A foreign passport

The CTA defines a “beneficial owner” as an individual who, directly or indirectly, (1) exercises substantial control over the entity or (2) owns or controls not less than 25% of the ownership interests of the entity. The CTA exempts minor children from being reported as beneficial owners if the child’s parent or legal guardian is reported instead. In addition, nominees, employees (excluding senior officers), future inheritors and creditors do not qualify as beneficial owners.

Is this an annual reporting requirement?

No, the law only requires an initial report, updated report (when necessary), and a corrected report (when necessary).

What are the Deadlines for Reporting?

| Entity Formation/Registration Date | Reporting Deadline |
|------------------------------------|--------------------------------------------|
| Before January 1, 2024 | January 1, 2025 |
| January 1 to December 31, 2024 | Within 90 Days of information/registration |
| On or after January 1, 2025 | Within 30 Days of information/registration |

In addition, if any information in the reports filed with FinCEN changes, an updated report must be filed within 30 days of the change.

What are the Penalties for Failing to Comply?

Failure to comply with the CTA’s reporting requirements can result in both criminal and civil penalties, including fines of \$500 per day (not to exceed \$10,000) and up to two years imprisonment.

How is my Beneficial Ownership Information Stored and Who has Access?

BOI reported to FinCEN will be stored in a secure, nonpublic database using information security methods and controls typically used by the federal government to protect non-classified yet sensitive information. FinCEN will allow federal, state, local, and tribal officials, as well as certain foreign officials who submit a special request, to obtain BOI for authorized activities related to national security, intelligence, and law enforcement. Financial institutions can access BOI in certain circumstances, with the consent of the reporting company. Their regulators will also have access to BOI when supervising the financial institutions.

How are Reports submitted to FinCEN?

Reporting companies will submit reports electronically through FinCEN’s [Beneficial Ownership Secure System \(BOSS\)](#).

Note: Beware of potential scam websites! This new filing requirement is likely to result in scam websites or organizations attempting to trick internet users and business owners to enter their beneficial ownership information into a scam website. They may lure users through many communication channels, such as social media, email, and text messaging. Search results are sometimes manipulated through search engine optimization methods, leading to malicious sites appearing in top positions.

Reporting companies should not report beneficial ownership information to any organization except for FinCEN. Websites are often set up to “spoof” a legitimate site. This is done by using a domain name that looks or sounds like legitimate site addresses. For example, instead of IRS.gov, a spoof site might use IRS.com or IRS.org. When submitting the report to FinCEN, be sure to go to the online filing system on the [FinCEN website](#).

What is a FinCEN ID?

A FinCEN ID is a unique identifying number issued to an individual by FinCEN. Although there is no requirement to obtain a FinCEN ID, doing so can simplify the reporting process. An individual beneficial owner or company applicant's FinCEN ID can be reported instead of re-entering all of the required information about that individual on the company's report. This can ease the process and save you time. You can obtain a FinCEN ID using [FinCEN's website](#).

What about Similar State Laws?

Some states, such as New York State, have adopted additional reporting requirements for reporting companies. Check with your state for more information.²

What can you do?

We advise that you consult an attorney or accountant about compliance with the CTA. The [FinCEN website](#) also has helpful information and a link to the registration forms. Unfortunately, 1919 Investment Counsel will not be able to handle CTA compliance for you.

FOOTNOTES

¹ An inactive entity is one that: (A) was in existence on or before January 1, 2020, (B) is not engaged in active business, (C) is not owned by a foreign person, whether directly or indirectly, wholly or partially, (D) has not experienced any change in ownership in the preceding 12-month period, (E) has not sent or received any funds in an amount greater than \$1,000, either directly or through any financial account in which the entity or any affiliate of the entity had an interest, in the preceding 12 month period, and (F) does not otherwise hold any kind or type of assets, whether in the United States or abroad, including any ownership interest in any corporation, LLC, or other similar entity.

² The New York LLC Transparency Act (NY LLCTA) will become effective as of Jan. 1, 2026, and will require limited liability companies (LLCs) formed, or qualified to do business, in the state of New York to disclose individual beneficial owner information to the New York Department of State (NYDOS).

About 1919 Investment Counsel

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