

Effective Jan. 1, 2024, all entities organized and operating in the United States need to comply with the Corporate Transparency Act (CTA). This will generally require that each entity register its “beneficial owners” with the Financial Crimes Enforcement Network (FinCEN).

### **What is the CTA?**

The CTA is a U.S. Federal Law that was enacted in 2021. The CTA’s purpose is to combat money laundering, fraud and other illicit activities by requiring entities to report their beneficial owners to FinCEN’s non-public database. The CTA aims to increase transparency and accountability in corporate ownership and prevent the misuse of anonymous entities for illegal purposes.

### **Which entities must report?**

Any entity that is registered to do business, or is organized with a U.S. state, or Native American Tribe must comply with the CTA. This includes corporations, LLCs, LLPs, LPs and business trusts as well as any other entity that is created by the filing of a document with a Secretary of State or Native American Tribe.

### **Are there any exemptions from reporting?**

FinCEN has issued a list of entities exempt from reporting, including certain non-profit entities, “large operating entities,” and entities operating in highly regulated industries (e.g. banks and CPA firms), provided that the entity meet the list of factors required to be considered exempt. Given the list of factors, most LLCs – even if closely held – do not meet the exemptions and must report under the CTA. All non-exempt entities must register their beneficial owners with FinCEN. Unless an entity has confirmed its exempt status against the factors released by FinCEN, it should assume that it is a reporting entity.

### **What must be reported and how often?**

Each entity must report its beneficial owners, which are the individuals who ultimately own at least 25% of the entity or exercise substantial control over it. For entities owned by entities, the ultimate upstream individual owners are the beneficial owners who will need to be reported for the lower tier entity. FinCEN requires that certain information be reported for each beneficial owner, including but not limited to full legal name, non-expired U.S. identification document and current residential address. Once reported, an entity must update FinCEN within 30 days of any change to its reported information. Entities are required to report legal name, any trade names and their Tax Identification Number, among other information.

### **What is done with the information collected?**

The data will be entered into the Beneficial Owner Secure System (BOSS) which is a database operated and maintained by FinCEN. These reports are considered sensitive information and kept confidential with the exception of access by the following: FinCEN, certain law enforcement agencies with court approval, non-U.S. law enforcement agencies (e.g. foreign governments), and financial institutions and regulators with the consent of the reporting party.

**When does compliance begin?**

Reporting opened on Jan. 1, 2024. Entities created before the end of 2023 will have until Jan. 1, 2025, to report current beneficial owners. For companies registered or created after Dec. 31, 2023, reporting must occur within 90 days of the entity's organization. For entities organized in 2025 and going forward, registration must occur within 30 days of organization. Entities organized in 2024 and going forward will also need to report the "company applicant," which is the individual(s) who orchestrates and coordinates the entity's registration or organization.

**What are the potential consequences for failing to report?**

Willful failure to report required information under the CTA can result in significant penalties. For *reporting violations*, the CTA establishes: (i) civil penalties of up to \$500 for each day a violation continues or has not been remedied; and (ii) criminal penalties of up to \$10,000, imprisonment for up to two years, or both. For *disclosure-and-use violations*, the CTA establishes: (i) civil penalties of up to \$500 for each day a violation continues or has not been remedied; and (ii) criminal penalties of up to \$250,000, imprisonment for up to five years, or both.

Parsons Behle & Latimer attorneys are well-acquainted with the CTA and are able to assist with registration and ongoing compliance required under the CTA through our customized interface. We have developed an integrated registration process and a dedicated team to assist clients in compliance and maintenance with the CTA. To discuss obtaining guidance for your organization please send an email to [cta@parsonsbehle.com](mailto:cta@parsonsbehle.com).

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