

WHAT IS THE CORPORATE TRANSPARENCY ACT?

The Corporate Transparency Act (CTA) was signed into law on January 1, 2021, as part of ongoing efforts to combat money laundering and other illegal activities. “Bad actors” (those individuals who commit these types of crimes) often hide their identities behind corporations, limited liability companies (LLCs) and other business types.

The Financial Crimes Enforcement Network (FinCEN) is the Department of Treasury bureau that will enforce the CTA. The CTA requires businesses to report beneficial ownership information to FinCEN, and it also requires FinCEN to develop a confidential and secure database to maintain the information.

Beginning January 1, 2024, the CTA requires domestic and foreign “reporting companies” (that do not meet one of the 23 exemptions) to file a report with FinCEN containing information on (1) beneficial owners, (2) company applicants (only for entities created after January 1, 2024), and (3) the reporting company itself.

DEFINITIONS AND WHAT NEEDS TO BE FILED

“BENEFICIAL OWNER”

An individual that directly or indirectly exercises substantial control over the reporting company or an individual who owns or controls 25% or more of the reporting company’s ownership interests. **NOTE:** A beneficial owner does NOT include an employee who only acts as an employee.

FinCEN report will require:

1. Full name
2. Date of birth
3. Residential street address (beneficial owners) or business address (company applicants)
4. Unique identifying number from a non-expired identification document, including an image of the document (driver’s license, passport, state ID)

“COMPANY APPLICANT”

The individual who files the document that forms a domestic entity or registers a foreign entity, and anyone who directs or controls the filing of the document by another person.

FinCEN report will require:

- 1. Full name**
- 2. Date of birth**
- 3. Residential street address (beneficial owners) or business address (company applicants)**
- 4. Unique identifying number from a non-expired identification document, including an image of the document (driver’s license, passport, state ID)**

“DOMESTIC REPORTING COMPANY”

A corporation, LLC, or other entity that is created by the filing of a document with the Secretary of State (or similar office).

“FOREIGN REPORTING COMPANY”

A corporation, LLC, or other entity formed under the laws of a foreign country that is registered to do business in the United States by filing a document with the Secretary of State (or similar office).

FinCEN report will require:

- 1. Company name (full legal name), including DBAs**
- 2. Business address (street address of principal place of business)**
- 3. State/tribal/foreign jurisdiction of formation/registration**
- 4. TIN (including EIN), or, if TIN has not yet been issued, DUNS number or LEI (foreign companies without a TIN must provide a foreign tax identification number), in Arizona and foreign jurisdiction**

NOTE: Reporting Companies created/registered created *prior to* January 1, 2024, are not required to submit company applicant information. These companies only need to report that they were created/registered prior to the effective date and the information required for reporting companies and beneficial owners.

EXEMPTIONS

There are 23 exemptions to filing beneficial ownership information with FinCEN.

NOTE: most small corporations and LLCs will not be exempt.

1. Securities reporting issuer
2. Governmental authority
3. Bank
4. Credit union
5. Depository institution holding company
6. Money services business (a FinCEN registered business)
7. Broker or dealer in securities
8. Securities exchange or clearing agency
9. Other Exchange Act registered entity
10. Investment company or investment adviser
11. Venture capital fund adviser
12. Insurance company
13. State-licensed insurance producer
14. Commodity Exchange Act registered entity
15. Accounting firm (registered under the Sarbanes-Oxley Act)
16. Public utility
17. Financial market utility
18. Pooled investment vehicle
19. Tax-exempt entity (a 501(c) entity)
20. Entity assisting a tax-exempt entity (financial or governance assistance and is a US citizen).
21. Large operating company (>20 full time employees, physical office in US, and federal income > \$5 million).
22. Subsidiary of certain exempt entities
23. Inactive entity (formed prior to January 1, 2020, is not engaged in business, not owned by a foreign person, has not changed ownership in past year, has not received more than \$1,000 within past year and does not have assets).

WHEN MUST I FILE?

- Reporting Companies created/registered **before** January 1, 2024, must file their initial report with FinCEN within 1 year of January 1, 2024.
- Reporting Companies created/registered **after** January 1, 2024, must file the initial report with FinCEN within 90 days after they are created/registered for the first year of the requirement. After January 1, 2025, the report must be filed 30 days after the business is formed.

- If there is a change in the information previously reported to FinCEN, Reporting Companies must file an *updated report* within 30 days. This requirement does not include updates on company applicants.

WHERE DO I FILE?

The report is filed electronically with the Financial Crimes Enforcement Network (FinCEN), a division of the U.S. Department of Treasury, via a filing system available on FinCEN's website. The filing process can be managed and submitted by a third-party professional services provider to simplify the process for your business.

The Arizona Corporation Commission will provide a link to the FinCEN website where you can file your report directly with FinCEN.

FAQS

Is there a fee to file the report?

No, there is no filing fee.

Do I have to file the report with the Arizona Corporation Commission?

No. The report will only be filed with FinCEN. The Arizona Corporation Commission will not accept or file your beneficial ownership report. Please be aware of spoof (scam) websites! Only file the report on the official FinCEN website.

Will the public have access to or see the beneficial ownership information?

No. FinCEN is authorized to disclose beneficial ownership information only to certain groups and only for certain authorized purposes. Those groups include federal law enforcement and national security agencies, state law enforcement agencies with court authorization, the Treasury Department, financial institutions with the company's consent, and federal and state regulators of financial institutions. The Arizona Corporation Commission will not have access to the report or its information.

What are the penalties for non-compliance?

Violators are subject to a civil penalty of up to \$500 for each day the violation continues, criminal fines of up to \$10,000, imprisonment for up to two years, or all.

How often do I need to file a report?

You only need to file the report once, however, if there are changes or corrections to the corporation or LLC information, an updated report must be filed with FinCEN. Corrections or changes must be reported within 30 days.

Where can I get more specific information?

You can go to the FinCEN website: www.fincen.gov/boi or email FinCEN at FRC@fincen.gov.