



# Overview of the Corporate Transparency Act

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**February 26, 2025** – There have been a host of stories about the 2021 federal Corporate Transparency Act (“CTA”) in the news lately due to multiple ongoing lawsuits and proposed legislation. Orders issued in those lawsuits have alternatively stayed and reinstated the effectiveness of the CTA and its reporting requirements. This article aims to recall the basic outline and obligations of the CTA and explain the current status and deadlines of the reporting requirements.

## Overview of the Corporate Transparency Act

The CTA became effective January 1, 2024 and requires certain business entities operating in or around the title insurance industry to report personal information about their individual owners to the federal Financial Crimes Enforcement Network (“FinCEN”).

Specifically, the CTA requires a “**Reporting Company**” to provide (and update) personally identifying information about the company’s “**Beneficial Owners**” and potentially its “**Company Applicant(s)**” (collectively, “BOI”) to FinCEN by certain dates. Its purpose is to create a registry of BOI that law enforcement and regulators can quickly and easily access in their fight against organized crime, money laundering, and bad actors hiding behind shell entities.

## Who Must Report?

The CTA defines a Reporting Company as a “corporation, limited liability company, or other similar entity that is “created by the filing of a document with a secretary of state or a similar office under the law of a State or Indian Tribe . . . .” Therefore, filing entities may be Reporting Companies if they do not qualify for an exemption. However, non-filing entities – such as common law trusts, general partnerships, and sole proprietorships – do not constitute Reporting Companies and do not need to file with FinCEN. There are 23 exemptions to the definition of a Reporting Company, the most relevant to the title industry being exemptions for: (1) a publically traded company; (2) an insurance company; (3) a state-licensed insurance producer; (4) a large operating company; and (5) a wholly-owned subsidiary of those exempt entities.

## Does a Title Company Have to Report BOI?

The answer is not crystal clear, but if it is licensed as a title company by the Texas Department of Insurance, the title company likely does not have to report BOI. The CTA loosely defines a “state-licensed insurance producer” as any entity that “is an insurance producer authorized by a State and subject to supervision by the insurance commissioner or similar official or agency of a State and has an operating presence at a physical office in the United States.” A “large operating company” is defined as one which: (1) employs more than 20 full-time employees; (2) filed the previous year’s income tax returns showing more than \$5 Million in gross receipts or sales; and (3) has an operating presence at a physical office in the United States. Based on these broad definitions, title insurers and title agents likely do not qualify as Reporting Companies and thus would not need to report BOI to FinCEN. However, their related entities may not be exempt, and remember that there is no exemption for attorneys or law firms.

## What Information Does a Reporting Company Have to Provide?

If an entity is a Reporting Company, it will have to report to FinCEN personal information about itself and its Beneficial Owners. The CTA defines a Beneficial Owner as “an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise: (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 further defines “substantial control” and “ownership interests” to aid in the identification of a Beneficial Owner.

The following chart outlines the categories of information to be reported.

### Reporting Companies must provide the following information to FinCEN:

<b><u>For a Reporting Company</u></b>	• Full legal name
	• Any trade or d/b/a name
	• Street address of principal place of business or primary location in U.S.
	• Jurisdiction of formation or registration
	• Unique identifying number = TIN with EIN

<b><u>For a Beneficial Owner</u></b>	• Full legal name
	• Date of birth
	• Current residential street address
	• Unique identifying number (1 of 4 options): <ul style="list-style-type: none"><li>○ Current U.S. passport</li><li>○ State or local ID</li><li>○ Current drivers’ license</li><li>○ If none of the above available, current foreign country passport</li></ul>
	• Image of document from which unique identifying number came with photograph of individual <i>e.g., picture of DL or passport</i>

## When is Reporting Due?

In *Smith, et al. v. U.S. Department of the Treasury, et al.*, No. 6:24-cv-00336 (E.D. Tex.), the U.S. District Court for the Eastern District of Texas issued an order on January 7, 2025 staying the requirement for BOI reporting. The Department of Justice, on behalf of the Treasury Department (of which FinCEN is a part), appealed that order. On February 18, 2025, the district court agreed to stay its order until the completion of the appeal. Therefore, the requirement to report BOI is back in effect.

FinCEN now states that the new deadline to file an initial, updated, or corrected BOI report is **March 21, 2025**.

However, this deadline does not apply in the following circumstances:

- Reporting companies that were previously given a reporting deadline later than the March 21, 2025 deadline (for example, disaster relief extensions) must file their initial BOI report by that later deadline.
- The plaintiffs in the *National Small Business United v. Yellen*, No. 5:22-cv-01448 (N.D. Ala.) case are not currently required to report their BOI. Those plaintiffs include:
  - Isaac Winkles;
  - Reporting Companies for which Isaac Winkles is the beneficial owner or applicant;
  - The National Small Business Association; and
  - Members (as of March 1, 2024) of the National Small Business Association

FinCEN has also stated that it is “assess[ing] its options to further modify deadlines, while prioritizing reporting for those entities that pose the most significant national security risks.” It also “intends to initiate a process this year to revise the BOI reporting rule to reduce burden for lower-risk entities, including many U.S. small businesses.”