

New Haven Register

<https://www.nhregister.com/opinion/article/corporate-transparency-act-reporting-requirements-18678363.php>

OPINION

Today's Business: Here's what you need to know about complying with the Corporate Transparency Act

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March 2, 2024



Attorneys John J. Louizos, left, and Julie Ludwig. Contributed photo

Bad business. Bad business. What you gonna do when FinCEN comes for you?

Wait a minute. You are a good business. Who is FinCEN and what do they want? You already file countless forms and documents with the state and federal government. Is this a new one to worry about?

Yes.

There is a new reporting requirement that may affect you and any business entities associated with you. Beginning in 2024, certain business entities that qualify as a "reporting company" under the Corporate Transparency Act (CTA) are required to submit Beneficial Ownership Information to FinCEN (the Financial Crimes Enforcement Network). The federal law has cast a very wide net, using FinCEN to gather, collect and store information to help fight money laundering and even terrorism.

Information can be submitted via FinCEN's online platform, available at: www.fincen.gov. Don't ignore it as there are penalties, including potential criminal penalties, for non-compliance.

The penalties can be very stiff, ranging from fines of \$500 per day to jail time of up to two years and a fine of \$10,000 for criminal violations.

What entities are considered "reporting companies?"

There are two types. Domestic reporting companies are corporations and any other entities, even limited liability companies, that were created by the filing of a document with a secretary of state or any similar office in the nation.

The second type are firms formed under laws of a foreign country and are registered to do business in the United States.

And, of course, there are exemptions. Twenty-three of them, in fact. Among those exempt are banks, credit unions, investment companies, and, among others, insurance companies.

For business entities created or registered prior to Jan. 1, 2024, initial reports must be filed by Jan. 1, 2025. For entities created or registered in 2024, initial reports must be submitted within 90 days after receiving (actual or public) notice of creation or registration. Beginning in 2025, this timeline will be shortened from 90 days to 30 days.

It is important to keep in mind that the new regulations are not just for large firms. Small businesses fall under the law as well.

What kind of information must be provided by "reporting companies"?

Most of it is fairly straightforward: the company's legal name, trade name or "doing business as" name, current address, the company's jurisdiction of formation, and the company's TIN (or foreign equivalent).

Next, among other details to report, the “beneficial owners” must be identified — those who exercise, even indirectly, “substantial control” over the reporting company, or those who control at least 25 percent of the “ownership interests,” as carefully defined in the regulations.

For firms with multiple beneficial owners, collecting the needed data may take some time. In addition to names, addresses and dates of birth, an image from a passport, driver’s license or similar photo identification document is needed.

As with just about any federal regulation, we should expect periodic changes and updates. Clearly, it is crucial to stay abreast of this law for 2024 and down the road.

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