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# Legal Alert

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## News & Announcements

### **The CTA is Coming: What You Need to Know**

The Corporate Transparency Act (CTA) is a federal statute requiring reporting of beneficial owners and controlling persons by many domestic and foreign entities. While compliance is not required until 2024, pre-existing entities that meet the reporting requirement will have to comply.

*Accordingly, it is important for all businesses to start thinking about what they might need to do. If you are unsure of your obligations, SSRGA can help.*

### **Where are Reports Filed?**

Reports will be filed with the US Treasury Financial Crimes Enforcement Network (FinCEN). FinCEN is developing a “beneficial ownership information webpage” (<https://www.fincen.gov/boi>), and filings will be made online through that portal. That webpage is scheduled to go live on January 1, 2024.

### **When Must Reports be Filed?**

Covered entities existing as of January 1, 2024 have until December 31, 2024 to file an initial report.

Covered entities formed (or foreign entities registered in the US) on or after January 1, 2024 have 30 days to file an initial report. That 30 day period is extended to 90 days for initial filings by entities formed (or registered) in 2024.

Entities that initially were not covered, but become covered, have 30 days to file an initial report.

A reporting company that has a change in reported information has 30 days to file an update.

A reporting company that becomes exempt must treat that event as a reportable change.

## **What Entities Must Report?**

Subject to certain exemptions, any domestic entity “created by the filing of a document with a secretary of state or any similar office under the law of a State or Indian tribe” or any foreign entity that registers in the US by similar means, must report. Subject to the exemptions, the reporting requirements will apply to most corporations, LLCs and limited partnerships, but will exclude most general partnerships and trusts. Exemptions include, but are not limited to, Exchange Act reporting companies, broker-dealers, banks, credit unions, 501(c) tax exempt entities, “large operating companies” (see next) and wholly owned subsidiaries of exempt entities.

## **What is a Large Operating Company?**

A large operating company is an entity that (1) employs more than 20 full time employees in the US, (2) has an operating presence at a physical office within the US and (3) filed a Federal income tax or information return in the US for the previous year demonstrating more than \$5,000,000 in gross receipts or sales. Note that newly formed entities are unlikely to meet this test within 30 days of formation, so they likely will be required to file an initial report. Further, this is a year-by-year test, so entities can go back and forth between reporting and exemption.

## **What Company Information Must be Reported?**

Formal name, any d/b/a names, jurisdiction of formation, address and EIN.

## **What Other Information Must be Reported?**

For each beneficial owner (traced to a natural person) who owns 25% or more of the entity or who “exercises substantial control,”<sup>1</sup> (1) name, (2) date of birth, (3) residence address and (4) a “unique identifying number,” such as a driver’s license or passport number, the jurisdiction of issuance and a copy of the instrument. The initial report must also, except for reporting companies created or registered in the US before January 1, 2024, identify the individuals who qualify as the “company applicant” and give the same four items of information, except that a business address may be used. The “company applicant” is the individual who directly files the document that creates the reporting company and the individual who is primarily responsible for directing or controlling such filing.

## **I Will Need to Report for a Number of Entities, Is There a Shortcut?**

Individuals may submit the required personal information to FinCEN and receive a unique “FinCEN identifier.” Thereafter, company reports can include the applicable FinCEN identifier in lieu of repeating the individual’s personal information. This information must also be updated if it changes, but your number will remain the same.

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<sup>1</sup> In the terminology of the CTA and FinCEN, “beneficial owner” is used to mean both equity owners and persons exercising control.

## **Who Can See Reports?**

The database created by these reports is not public. It will be available to certain federal agencies, law enforcement, and banks and other businesses that are subject to a “customer due diligence” obligation. For example, if your entity is applying for a loan, the bank may be able to match information from your loan application against your FinCEN report.

Please contact us if you have any questions or concerns. We are happy to help you meet your obligations under the CTA.

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