

Key Wealth Institute

# Corporate Transparency Act — Where Are We Now?

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We've been following developments in the Corporate Transparency Act (CTA) since it became law on January 1, 2021. It's been an on-again, off-again ride marked by numerous legal challenges. However, that ride may be over. Recent regulatory changes have significantly reduced the reporting obligations for many entities initially subject to the CTA.

On March 2, the U.S. Department of the Treasury announced that it would not enforce fines and penalties for CTA against domestic entities. Treasury has overall responsibility for the CTA, but its bureau, the Financial Crimes Enforcement Network (FinCEN), is handling implementation. On March 21, FinCEN issued an

interim final rule that revised the definition of "reporting company" to mean only those entities known as "foreign reporting companies."

FinCEN exempted from reporting requirements entities previously known as "domestic reporting companies." In addition, the rule exempts foreign reporting companies from having to report the beneficial ownership information (BOI) of any U.S. persons who are beneficial owners of the foreign reporting company. U.S. persons are also exempted from having to provide such information to any foreign reporting company of which they are a beneficial owner.

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## History of the Corporate Transparency Act (CTA)

Congress enacted the CTA as part of the broader Anti-Money Laundering Act of 2020. The CTA mandated that millions of entities in the U.S. report their BOI to the Treasury Department's FinCEN. There were several exemptions from the requirements of the CTA.

The initial act required millions of small companies, people with estate plans, and property owners to report personal information to FinCEN by 2025. Those subject to the CTA filing requirement would have to disclose personal information, including home addresses, birthdates, a copy of passports, driver's licenses, or other identifying documents from an issuing jurisdiction. This confidential information required by the CTA went well beyond what typically was reported on income tax returns. There was also concern about who would have access to the data that FinCEN collected.

The CTA was scheduled to take effect January 1, 2024, with initial reports not due until January 1, 2025, for reporting entities that existed before January 1, 2024. Domestic and foreign companies that were created or registered to do business in the U.S. in 2024 were required to file within 90 days after receiving actual or public notice, whichever was earlier, of their creation or registration.

Starting January 1, 2025, all reporting companies created or registered after that date were required to file their initial reports within 30 days. Noncompliance could have resulted in civil and criminal penalties. Many filings took place, some required and some voluntarily filed. Legal challenges rolled back the January 1, 2025, deadline several times.

## The Corporate Transparency Act's intent

The CTA's objective was to pierce through an entity and identify who was behind it. The act was part of a worldwide effort to combat criminal activities including money laundering, the financing of terrorism, serious tax fraud, and other financial crimes. However, opponents of the CTA argued that the requirements were onerous to lower-risk entities, including many U.S. small businesses. Costs to comply with the proposed requirements would hurt small businesses during financially difficult times.

The vast majority of domestic small businesses are legitimate and owned by American taxpayers who are not engaged in illicit activity. Also, many covered financial institutions are required to collect a legal entity customer's BOI at the time of account opening. That serves to mitigate certain illicit financial risks associated with exempting domestic reporting companies from reporting their BOI.

The CTA authorized the Treasury secretary to exempt "any entity or class of entities" from the reporting requirements if the Secretary, along with the U.S. attorney general and the secretary of Homeland Security, determined that "requiring beneficial ownership information from the entity or class of entities ... would not serve the public interest" and "would not be highly useful in national security, intelligence, and law enforcement agency efforts to detect, prevent, or prosecute money laundering, the financing of terrorism, proliferation of finance, serious tax fraud, or other crimes."

On January 31, President Donald Trump issued an executive order, *Unleashing Prosperity Through Deregulation*, which announced an administration policy "to alleviate unnecessary regulatory burdens placed on the American people."

At that point, the Treasury Secretary reassessed the balance between the usefulness of collecting BOI and the regulatory burdens imposed by the scope of the initial reporting rule.

FinCEN suspended enforcement of the CTA on February 27, announcing it would develop new regulations that would reduce "regulatory burden."

The bureau said it would prioritize "reporting of BOI for those entities that pose the most significant law enforcement and national security risks."

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## Foreign vs. domestic entities

A foreign entity is defined as any corporation, limited liability company, or other entity formed under the law of a foreign country and legally registered to do business in any U.S. state or tribal jurisdiction.

A domestic entity is defined as any corporation, limited liability company, or other entity legally created in any U.S. state or tribal jurisdiction.

Note that this does not include trusts, since they are not entities created through the process of filing with a state's secretary of state.

## Who is a U.S. person?

The new interim rule does not distinguish the term U.S. persons from foreign persons. Treasury most likely intended its meaning to align with the definition of "United States person" under the Internal Revenue Code. The Internal Revenue Code defines a "U.S. person" as being one of the following:

- A citizen or resident of the United States
- A domestic partnership
- A domestic corporation
- Any estate (other than a foreign estate).
- Any trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust.

Even if the beneficial owner is a foreign person, the new interim rule also exempts a minor child if the reporting company provides the required information of a parent or legal guardian of the minor child.

## What to do now

Unless Congress or the president act otherwise, it appears that the CTA will only apply to foreign entities registered to do business or coexist in the United States. The reporting will only require disclosing information on foreign owners and other foreign individuals who exercise control of such entities (direct or indirect ownership exceeding 25% per person, or otherwise can exercise substantial control). Any entity that meets the definition of "domestic reporting company" is no longer subject to the reporting rule. Foreign companies that only have beneficial owners who are U.S. persons are exempt from the requirement.

Foreign reporting companies and the beneficial owners (excluding U.S. persons) must file their initial BOI reports or update or correct previously filed BOI reports 30 days after the publication of FinCEN's interim rule in the Federal Register (March 26) or 30 days after they register to do business in the United States, whichever comes later.

FinCEN is accepting written comments on the interim rule until May 27. FinCEN said it will assess the exemptions, as appropriate, in light of those comments and intends to issue a final rule this year.

**Source:** Interim Final Rule 31 CFR Part 1010  
[Federal Register: Beneficial Ownership Information Reporting Requirement Revision and Deadline Extension](#)

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For more information, please contact your advisor.

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## About the Author

In her role, Tina Myers is responsible for managing the Central Planning Team and overseeing the Key Wealth Institute and any financial planning content distributed. She works with our Regional Planning Strategists to help facilitate our best thinking and advice delivery to clients.

Before joining Key, Tina worked in the public accounting industry, where she focused on taxes, specifically individual, trust, estate, and gift tax planning. She also held roles at a small public accounting firm, a regional firm, and the private client group of a large multi-national firm.

Tina earned an M.Tax from Virginia Commonwealth University and holds several industry-standard licensures. She received the Circle of Excellence Award for Key Private Bank in 2016 and 2018. She was selected to attend the 2024 Key Wealth Education Symposium, which recognizes top performance and extraordinary commitment to serving our clients and growing our business.



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