

The 23 exemptions from the Corporate Transparency Act's beneficial ownership information reporting requirement



With the beneficial ownership information reporting requirement imposed by the Corporate Transparency Act effective on January 1, 2024, every “reporting company” must file a report with the Financial Crimes Enforcement Network (FinCEN).

A “reporting company” is defined as a corporation, LLC, or other entity created by the filing of a document with a Secretary of State or similar office or formed under the law of a foreign country and registered to do business by the filing of a document with a Secretary of State or similar office. (See 31 CFR 1010.380(C)(1)).

However, a corporation, LLC, or other entity is not considered a reporting company, and therefore not required to file a report if it qualifies for one of the 23 exemptions set forth in the Corporate Transparency Act and the final rule implementing the reporting requirement. (See 31 CFR 1010.380(C)(2)).

Exempt from being considered a “reporting entity” is the following:

1. Securities reporting issuer

Any issuer of securities that is: (A) an issuer of a class of securities registered under Sec. 12 of the Securities Exchange Act of 1934, or (B) required to file supplementary and periodic information under Sec. 15(d) of the Securities Exchange Act of 1934.

2. Governmental authority

Any entity that: (A) is established under the laws of the United States, an Indian tribe, a State, or a political subdivision of a State, or under an interstate compact between two or more States, and (B) exercises governmental authority on behalf of the United States or any such Indian tribe, State, or political subdivision.

3. Bank

Any bank, as defined in: (A) Sec. 3 of the Federal Deposit Insurance Act, (B) Sec. 2(a) of the Investment Company Act of 1940, or (C) Sec. 202(a) of the Investment Advisers Act of 1940.

4. Credit union

Any Federal credit union or State credit union, as those terms are defined in Sec. 101 of the Federal Credit Union Act.

5. Depository institution holding company

Any bank holding company as defined in Sec. 2 of the Bank Holding Company Act of 1956, or any savings and loan holding company as defined in Sec. 10(a) of the Home Owners' Loan Act.

6. Money services business

Any money transmitting business registered with FinCEN under 31 U.S.C. 5330, and any money services business registered with FinCEN under 31 CFR 1022.380.

7. Broker or dealer in securities

Any broker or dealer, as those terms are defined in Sec. 3 of the Securities Exchange Act of 1934, that is registered under Sec. 15 of that Act.

8. Securities exchange or clearing agency

Any exchange or clearing agency, as those terms are defined in Sec. 3 of the Securities Exchange Act of 1934, that is registered under Secs. 6 or 17A of that Act.

9. Other Exchange Act registered entity

Any entity other than that described in exemption 1 (Securities reporting issuer), exemption 7 (Broker or dealer in securities), or exemption 8 (Securities exchange or clearing agency) that is registered with the SEC under the Securities Exchange Act of 1934.

10. Investment company or investment adviser

Any entity that is: (A) an investment company as defined in Sec. 3 of the Investment Company Act of 1940, or is an investment adviser as defined in Sec. 202 of the Investment Advisers Act of 1940, and (B) registered with the SEC under the Investment Company Act of 1940 or the Investment Advisers Act of 1940.

11. Venture capital fund adviser

Any investment adviser that: (A) is described in section 203(l) of the Investment Advisers Act of 1940, and (B) has filed Item 10, Schedule A, and Schedule B of Part 1A of Form ADV, or any successor thereto, with the SEC.

12. Insurance company

Any insurance company as defined in Sec. 2 of the Investment Company Act of 1940.

13. State-licensed insurance producer

Any entity that: (A) is an insurance producer that is authorized by a State and subject to supervision by the insurance commissioner or a similar official or agency of a State, and (B) has an operating presence at a physical office within the United States.

14. Commodity Exchange Act registered entity

Any entity that: (A) is a registered entity as defined in Sec. 1a of the Commodity Exchange Act, or (B) is: (1) a futures commission merchant, introducing broker, swap dealer, major swap participant, commodity pool operator, or commodity trading advisor, each as defined in Sec. 1a of the Commodity Exchange Act, or a retail foreign exchange dealer as described in Sec. 2(c)(2)(B) of the Commodity Exchange Act and (2) registered with the Commodity Futures Trading Commission under the Commodity Exchange Act.

15. Accounting firm

Any public accounting firm registered in accordance with Sec. 102 of the Sarbanes-Oxley Act of 2002.

16. Public utility

Any entity that is a regulated public utility as defined in 26 USC 7701(a)(33)(A) that provides telecommunications services, electrical power, natural gas, or water and sewer services within the United States.

17. Financial market utility

Any financial market utility designated by the Financial Stability Oversight Council under Sec. 804 of the Payment, Clearing, and Settlement Supervision Act of 2010.

18. Pooled investment vehicle

Any pooled investment vehicle that is operated or advised by a person described in exemptions 3 (bank), 4 (credit union), 7 (broker or dealer in securities), 10 (investment company or investment adviser), or 11 (venture capital fund adviser).

19. Tax-exempt entity

Any entity that is: (A) an organization that is described in Sec. 501(c) of the Internal Revenue Code of 1986 (determined without regard to Sec. 508(a) of the Code) and exempt from tax under Sec. 501(a) of the Code, except that in the case of any such organization that ceases to be described in Sec. 501(c) and exempt from tax under Sec. 501(a), such organization shall be considered to continue to be described as a tax-exempt entity for the 180-day period beginning on the date of the loss of such tax-exempt status, (B) a political organization, as defined in Sec. 527(e)(1) of the Code, that is exempt from tax under Sec. 527(a) of the Code, or (C) a trust described in paragraph (1) or (2) of Sec. 4947(a) of the Code.

20. Entity assisting a tax-exempt entity

Any entity that: (A) operates exclusively to provide financial assistance to, or hold governance rights over, any entity described in exemption 19 above (tax-exempt entity), (B) is a United States person, (C) is beneficially owned or controlled exclusively by one or more United States persons that are United States citizens or lawfully admitted for permanent residence, and (D) derives at least a majority of its funding or revenue from one or more United States persons that are United States citizens or lawfully admitted for permanent residence.

21. Large operating company

Any entity that: (A) employs more than 20 full time employees in the United States, with “full time employee in the United States” having the meaning provided in 26 CFR 54.4980H-1(a) and 54.4980H-3, except that the term “United States” as used in those sections of the CFR have the meaning provided in 31 CFR 1010.100(hhh), (B) has an operating presence at a physical office within the United States, and (C) filed a Federal income tax or information return in the United States for the previous year demonstrating more than \$5,000,000 in gross receipts or sales, as reported as gross receipts or sales (net of returns and allowances) on the entity's IRS Form 1120, consolidated IRS Form 1120, IRS Form 1120-S, IRS Form 1065, or other applicable IRS form, excluding gross receipts or sales from sources outside the United States, as determined under Federal income tax principles. For an entity that is part of an affiliated group of corporations within the meaning of 26 USC 1504 that filed a consolidated return, the applicable amount shall be the amount reported on the consolidated return for such group.

22. Subsidiary of certain exempt entities

Any entity whose ownership interests are controlled or wholly owned, directly or indirectly, by one or more entities described in exemptions 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, or 21 set forth above.

23. Inactive entity

Any entity that: (A) was in existence on or before January 1, 2020, (B) is not engaged in active business, (C) is not owned by a foreign person, whether directly or indirectly, wholly or partially, (D) has not experienced any change in ownership in the preceding twelve-month period, (E) has not sent or received any funds in an amount greater than \$1,000, either directly or through any financial account in which the entity or any affiliate of the entity had an interest, in the preceding 12 month period, and (F) does not otherwise hold any kind or type of assets, whether in the United States or abroad, including any ownership interest in any corporation, limited liability company, or other similar entity.



BizFilings is here to help

Determining whether a beneficial ownership information report must be filed involves a two-step process. First, determine if the entity is a corporation, LLC, or other entity created by the filing of a document with a Secretary of State or similar office, or formed under the law of a foreign country and registered to do business by the filing of a document with a Secretary of State or similar office. If so, the second step is to determine if it is one of the 23 types of entities that are exempt from having to file a report.

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BizFilings is not a law firm and cannot provide legal advice, including providing advice as to whether any specific entity will be required to file a report. BizFilings cannot provide its own interpretation of the statute or FinCEN's final report ruling, however many of the questions can be answered by referring to the text of the final rule, sections of which have been provided where appropriate. You can also direct questions to FinCEN. The phone number of the FinCEN Regulatory Support Section is 1-800-767-2825 and you can email them at frc@fincen.gov.