FinCEN Beneficial Ownership Reporting for Cross-Border Structures under the Corporate Transparency Act after the August 2026 Final Rule

An Adviser's Guide to how the Corporate Transparency Act arrived at the final rule of August 11, 2026 and what remains unsettled; current filing requirements; what the foreign-only rule means for blockers, holding companies, trusts, and private trust companies; the customer due diligence rule as a separate and unaffected obligation; the other regimes that still apply, from New York's LLC Transparency Act and the Vacated Residential Real Estate Rule to Form 5472, FATCA, and the Common Reporting Standard; and current best practices in light of possible future changes.

When the Corporate Transparency Act took effect on January 1, 2024, every corporation, limited liability company, and similar entity created by a filing in a U.S. state, and every foreign entity registered to do business in one, was a reporting company, subject to a list of exemptions written for operating and regulated businesses rather than for the holding vehicles of private wealth; FinCEN's estimate at the time ran to 32.6 million entities.[1] That regime operated, with interruptions, from January 1, 2024 until March 2025. After nationwide injunctions in late 2024 and early 2025 and a change of administration, Treasury announced on March 2, 2025 that it would not enforce the statute against domestic companies or U.S. citizens; FinCEN's interim final rule of March 26, 2025 confined the reporting obligation to entities formed under foreign law and registered in a U.S. state; and the final rule issued on August 11, 2026 and effective on its publication on August 14, 2026 made that confinement permanent, extended the exclusion of U.S. persons to company applicants and to holders of FinCEN identifiers, and committed FinCEN to deleting the U.S. person information already collected.[2] What remains at the federal level is a rule addressed to roughly 28,000 foreign reporting companies and to their non-U.S. beneficial owners.

The mistake this article exists to prevent is the conclusion that the final rule closed the subject of beneficial ownership disclosure for the structures of internationally connected families. Three things remain true. First, the surviving federal rule is addressed to cross-border practice: the foreign holding company, blocker, or trust company that registers to do business in a U.S. state is the entity that still reports, and the non-U.S. settlors, trustees, protectors, and owners above it are the persons it still reports. Second, the settlement is administrative rather than constitutional or legislative. Two petitions asking whether Congress had the power to enact the statute are before the Supreme Court, the first of them distributed for the Court's conference of September 28, 2026; a bill that would write

[1] Beneficial Ownership Information Reporting Requirements, 87 Fed. Reg. 59498 (Sept. 30, 2022) (regulatory impact analysis estimating 32.6 million reporting companies in existence in 2024), codified at 31 C.F.R. § 1010.380.

[2] Beneficial Ownership Information Reporting Requirement Revision, 91 Fed. Reg. 52508 (Aug. 14, 2026) (RIN 1506-AB67); FinCEN, News Release, FinCEN Permanently Ends Beneficial Ownership Reporting Requirements for Millions of Small Business Owners (Aug. 11, 2026).

the foreign-only rule into the statute was reported from committee in the House by a single vote and has not reached the floor; the Government Accountability Office has recommended that FinCEN identify actions to address the gap the exemptions created, and Treasury has disagreed; and the residential real estate rule, which took effect on March 1, 2026, was vacated eighteen days later by a federal district court whose judgment is under appeal, while a second district court has upheld the same rule. Third, the customer due diligence rule (the CDD rule, in FinCEN's usage) that requires banks, brokers, and other covered financial institutions to identify and verify the beneficial owners of their legal entity customers is a separate obligation, under separate authority, that the final rule expressly leaves untouched; the same is true of New York's LLC Transparency Act, of Form 5472, and of the automatic exchange of financial account information under FATCA and the Common Reporting Standard (CRS). What changed in August 2026 is which registry collects beneficial ownership information from which entities; the other collectors remained in place.

This article maps the terrain as it stands: how the Corporate Transparency Act arrived at the final rule and what remains unsettled; who must file now, what they file, and by when; what the foreign-only rule means for the structures this readership designs and administers, namely real estate holding companies, foreign blockers, holding companies, trusts, and private trust companies; the customer due diligence rule as a separate obligation; the other regimes that still apply; and the design disciplines for structures that must operate through whatever the courts, Congress, and FinCEN's remaining rulemakings do next. Statuses are stated as of September 2026; this area of law has reversed direction repeatedly since 2024, and current confirmation is part of any real engagement.

Summary

(1) The final rule issued on August 11, 2026 and effective August 14, 2026 (91 Fed. Reg. 52508) permanently exempts every domestic entity from beneficial ownership reporting and confines the obligation to foreign reporting companies: entities formed under the law of a foreign country and registered to do business in a U.S. state or tribal jurisdiction by a filing with a secretary of state or similar office. Those companies report their non-U.S. beneficial owners (substantial control, or 25 percent of ownership interests) within 30 days of registration and file updates and corrections within 30 days; U.S. persons, defined by section 7701(a)(30) of the Internal Revenue Code, are reported neither as beneficial owners nor, since the final rule, as company applicants. Willful violations carry a civil penalty of up to $606 per day and criminal penalties of up to two years' imprisonment and a $10,000 fine.

(2) FinCEN will delete, in what the preamble describes as a single sweep of its database, the information previously filed on U.S. persons and domestic companies; information included in filings made after February 10, 2027 will not be deleted. Non-U.S. persons holding FinCEN identifiers keep their 30-day duty to update them.

(3) The settlement is not final in every forum: two certiorari petitions (Nos. 25-1201 and 25-1290) are pending, the first distributed for the September 28, 2026 conference; H.R. 425, reported 26 to 25 on April 21, 2026, and S. 4419 would codify the foreign-only rule; GAO-26-107967 (May 29, 2026) recommends the opposite course; and appeals in the Fourth, Fifth, and Ninth Circuits are in abeyance.

(4) Structure map: the domestic real estate LLC, the domestic holding company, and the domestic private trust company file nothing under the Corporate Transparency Act; the foreign company that owns U.S. assets without registering in a state was never a reporting company; the foreign blocker, holding company, or trust company that registers reports, with ownership traced through the trusts above it to settlors holding a power of revocation, trustees, and sole-benefit or withdrawal beneficiaries, and with protectors and consent holders captured by the substantial control test; a trust is not itself a reporting company; an heir's future interest through inheritance is not an ownership interest; and a deceased owner's replacement is reported within 30 days of the settlement of the estate.

(5) The customer due diligence rule (31 C.F.R. § 1010.230) is unaffected: covered financial institutions continue to identify and verify, for every legal entity customer, each individual owning 25 percent or more of the equity and one individual in control, with the trustee treated as the owner where a trust holds the interest; the exceptive relief order of February 13, 2026 relieves institutions of re-verification at each new account, not of collection; and FinCEN has confirmed that it remains legally required to revise the rule under section 6403(d) of the statute.

(6) New York's LLC Transparency Act, in force since January 1, 2026, requires limited liability companies formed under the law of a foreign country and authorized in New York to file beneficial ownership disclosures (by December 31, 2026 for those authorized before 2026; within 30 days for new ones; annually thereafter; U.S. beneficial owners excluded; exempt LLCs file attestations), with past due status after 30 days, delinquency after two years, a $250 fine, civil penalties of up to $500 per day, suspension, and cancellation.

(7) FinCEN's residential real estate rule took effect March 1, 2026 and was vacated nationwide on March 19, 2026 (*Flowers Title Companies, LLC v. Bessent*, E.D. Tex.); FinCEN appealed to the Fifth Circuit on May 11, 2026, and a conflicting Middle District of Florida judgment upholding the rule is on appeal in the Eleventh Circuit. While the vacatur stands, no Real Estate Report is required and no liability attaches, and reports will not be required retroactively if the rule is reinstated; the closing-table certification process should nonetheless be kept ready.

(8) Form 5472 continues to report the foreign owner of every foreign-owned disregarded LLC to the IRS under a penalty of $25,000 per failure and $25,000 for each further 30-day period after notice; FATCA's reciprocal intergovernmental agreements deliver to partner countries only limited data on U.S. accounts held by their residents and never the owners of U.S. entities; the Common Reporting Standard, in which the United States does not participate, delivers the controlling persons of a U.S. entity's non-U.S. accounts to the family's home country. The planning conclusion: keep every structure filing-ready, decide state registrations and closings with the reporting consequences taken into account, and describe privacy planning to clients as liability and publicity management, never as anonymity.

Part I. The path of the Corporate Transparency Act to the final rule; currently unsettled issues

Congress enacted the Corporate Transparency Act on January 1, 2021, as part of the National Defense Authorization Act for Fiscal Year 2021, over a presidential veto, to require corporations, limited liability companies, and similar entities created or registered by a filing with a secretary of state to report their beneficial owners to FinCEN.[3] FinCEN's reporting rule of September 30, 2022 implemented the statute from January 1, 2024, defining reporting companies to include both domestic entities and foreign entities registered to do business in a state, subject to twenty-three exemptions drafted for regulated, publicly reporting, large operating, and inactive entities rather than for the passive holding vehicles of private wealth.[4] The access rule of December 2023 fixed who may see the database: federal agencies engaged in national security, intelligence, and law enforcement activity; state, local, and tribal law enforcement with court authorization; foreign law enforcement and judicial authorities through a federal agency under a treaty or other agreement; financial institutions subject to customer due diligence requirements, with the reporting company's consent; and their regulators. The public sees nothing.[5]

The litigation began before the first report was due. On March 1, 2024, the Northern District of Alabama held the statute beyond Congress's enumerated powers as applied to the plaintiffs before it.[6] On December 3, 2024, the Eastern District of Texas enjoined enforcement nationwide, an injunction that a Fifth Circuit motions panel stayed on December 23, 2024, that the merits panel reinstated on December 26, 2024, and that the Supreme Court stayed on January 23, 2025;[7] a second nationwide order from the same district, entered on January 7, 2025, kept the obligation suspended until that court stayed its own order in February 2025.[8] The administration that took office in January 2025 resolved the sequence administratively. On March 2, 2025, Treasury announced that it would not enforce the statute against U.S. citizens, domestic reporting companies, or their beneficial owners and that it would narrow the rule to foreign companies.[9] The interim final rule of March 26, 2025 removed domestic entities from the definition of reporting company, exempted them under the Secretary's exemptive authority, and provided that foreign reporting companies need not report their U.S. person beneficial owners.[10]

The final rule followed in August 2026. Issued on August 11, 2026 and effective on its publication on August 14, 2026, it adopts the interim rule's structure permanently and extends it in three respects: foreign reporting companies no longer report U.S. person company applicants; U.S. persons who obtained FinCEN identifiers are relieved of the duty to update or correct them; and a foreign pooled investment vehicle that would otherwise be exempt reports only an individual in substantial control who is not a

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[3] Pub. L. No. 116-283, div. F, tit. LXIV, § 6403, 134 Stat. 3388, 4604 (2021), codified at 31 U.S.C. § 5336; the Senate completed the override of the veto on January 1, 2021.

[4] 87 Fed. Reg. 59498 (Sept. 30, 2022); 31 C.F.R. § 1010.380(c)(2)(i) to (xxiii).

[5] Beneficial Ownership Information Access and Safeguards, 88 Fed. Reg. 88732 (Dec. 22, 2023), codified at 31 C.F.R. § 1010.955; 31 U.S.C. § 5336(c)(2)(B).

[6] *Nat'l Small Bus. United v. Yellen*, 721 F. Supp. 3d 1260 (N.D. Ala. 2024) (captioned *v. U.S. Department of the Treasury* on appeal and *v. Bessent* in the Supreme Court, the Secretary having changed).

[7] *Texas Top Cop Shop, Inc. v. Garland*, No. 4:24-cv-478 (E.D. Tex. Dec. 3, 2024); *Texas Top Cop Shop, Inc. v. Garland*, No. 24-40792 (5th Cir. Dec. 23, 2024) (motions panel granting stay), and (5th Cir. Dec. 26, 2024) (merits panel vacating the stay); *McHenry v. Texas Top Cop Shop, Inc.*, No. 24A653 (U.S. Jan. 23, 2025) (granting stay of the injunction pending appeal).

[8] *Smith v. U.S. Dep't of the Treasury*, No. 6:24-cv-336 (E.D. Tex. Jan. 7, 2025), stayed pending appeal (Feb. 2025).

[9] U.S. Dep't of the Treasury, Press Release, Treasury Department Announces Suspension of Corporate Transparency Act Enforcement for U.S. Citizens and Domestic Reporting Companies (Mar. 2, 2025).

[10] Beneficial Ownership Information Reporting Requirement Revision and Deadline Extension, 90 Fed. Reg. 13688 (Mar. 26, 2025) (RIN 1506-AB49), relying on 31 U.S.C. § 5336(a)(11)(B)(xxiv) and 31 U.S.C. § 5318(a)(7).

U.S. person.[11] The regulation now defines a reporting company solely as a foreign reporting company, reserves the former domestic definition, and lists domestic entities as the twenty-fourth exemption; a United States person is defined by reference to section 7701(a)(30) of the Internal Revenue Code, so that the exclusion turns on citizenship or income tax residence rather than on citizenship alone, and it applies whether the individual stands above the foreign company as an owner or beside it as an applicant.[12] FinCEN estimated in the preamble, on a revised base, that approximately 27.5 million domestic reporting companies have been relieved since the interim rule, that approximately 28,000 foreign reporting companies remain subject to the rule in its first effective year, of which about 13,000 had reported by the end of 2025, and that some 1,800 new foreign reporting companies will register each year.[13] It also committed FinCEN to what the preamble describes as a single sweep of the beneficial ownership database, to delete, as far as practicable, information that would not have been reported had the final rule been in force from January 1, 2024, identifying U.S. persons by the identity documents they filed; information about a U.S. company or U.S. person included in a filing made after February 10, 2027 will not be deleted.[14]

What remains unsettled is the statute itself and the reach of adjacent rules. The Eleventh Circuit, on December 16, 2025, unanimously reversed the Alabama judgment and upheld the statute as an exercise of the commerce power, rejecting a Fourth Amendment challenge in the same opinion.[15] The plaintiffs petitioned for certiorari on April 15, 2026; the Solicitor General filed the brief in opposition on August 21, 2026, after three extensions; the reply was filed on September 9, 2026; and the petition has been distributed for the Court's conference of September 28, 2026.[16] A second petition, for certiorari before judgment from the Fifth Circuit's still pending appeal in *Texas Top Cop Shop*, was filed on May 6, 2026; the government waived its response, and the petition, distributed for the conference of June 18, 2026 and then rescheduled, remained pending as of this writing.[17] The Fourth and Ninth Circuit appeals were held in abeyance pending the final rule and have not been decided.[18] In Congress, the House Financial Services Committee reported H.R. 425 on April 21, 2026 by a vote of 26 to 25; as reported, the bill would write the foreign-only rule into the statute and require deletion of the domestic data, and it had not received a floor vote.[19] S. 4419, introduced on April 29, 2026, would do the same in the Senate, where S. 100 proposes outright repeal.[20] On the other side of the question, the Government Accountability Office reported on May 29,

[11] 91 Fed. Reg. 52508 (Aug. 14, 2026); 31 C.F.R. § 1010.380(b)(2)(iii), (b)(4)(iii), (b)(5).

[12] 31 C.F.R. § 1010.380(c)(1), (c)(2)(xxiv), (f)(10); I.R.C. § 7701(a)(30).

[13] 91 Fed. Reg. 52508 (regulatory impact analysis).

[14] 91 Fed. Reg. 52508 (preamble, deletion of previously reported information).

[15] *Nat'l Small Bus. United v. U.S. Dep't of the Treasury*, No. 24-10736 (11th Cir. Dec. 16, 2025).

[16] *Nat'l Small Bus. United v. Bessent*, No. 25-1201 (U.S.) (petition filed Apr. 15, 2026, docketed Apr. 21, 2026; brief for the federal respondents in opposition filed Aug. 21, 2026; reply filed and case distributed for the conference of Sept. 28, 2026 on Sept. 9, 2026).

[17] *Texas Top Cop Shop, Inc. v. Blanche*, No. 25-1290 (U.S.) (petition filed May 6, 2026, docketed May 18, 2026; response waived May 26, 2026; distributed for the conference of June 18, 2026 and rescheduled June 5, 2026); the Fifth Circuit appeal, No. 24-40792, is held in abeyance.

[18] *Cmty. Ass'ns Inst. v. U.S. Dep't of the Treasury*, No. 24-2118 (4th Cir.) (held in abeyance); *Firestone v. Bessent* (9th Cir.) (held in abeyance).

[19] H.R. 425, 119th Cong. (as reported); H.R. Rep. No. 119-701 (2026).

[20] S. 4419, 119th Cong. (2026); S. 100, 119th Cong. (2025).

2026 that the exemptions remove more than 99 percent of the entities that previously reported and recommended that FinCEN identify actions to address the resulting risk; Treasury disagreed with the recommendation.[21] The practice posture that follows is unchanged from 2024: comply exactly with what is in force, keep every structure's beneficial ownership file current, and draft governing documents so that a re-scoped rule is an administrative event rather than a restructuring.

Part II. Current filing requirements

The operative definitions require close reading. A reporting company is now only a foreign reporting company: a corporation, limited liability company, or other entity formed under the law of a foreign country and registered to do business in any state or tribal jurisdiction by the filing of a document with a secretary of state or similar office.[22] Both halves matter. A British Virgin Islands or Liechtenstein company that owns U.S. securities or U.S. real estate without registering in a state is not a reporting company; ownership of U.S. assets is not registration. The German GmbH that registers in Delaware to run an American branch, the Luxembourg société à responsabilité limitée that qualifies in Florida because its property management crosses the doing-business line, and the foreign corporate trustee that qualifies with the secretary of state to act in a state are reporting companies.[23] The exemptions survive and still matter for the registered: banks, credit unions, registered investment companies and investment advisers, insurance companies, registered public accounting firms, tax-exempt entities, large operating companies (more than twenty full-time employees in the United States, an operating presence at a physical office in the United States, and a federal return for the previous year showing more than $5,000,000 in gross receipts or sales from U.S. sources), and subsidiaries whose ownership interests are controlled or wholly owned by certain exempt entities, among others; these categories occasionally cover a family's operating company and almost never its passive holding vehicle.[24]

The filing itself consists of the company's legal and trade names, address, jurisdiction of formation and of first U.S. registration, and taxpayer identification number, and, for each beneficial owner and each company applicant, the individual's full legal name, date of birth, residential address, and the number and an image of a passport, driver's license, or other acceptable identification document.[25] A beneficial owner is any individual who, directly or indirectly, exercises substantial control over the reporting company or owns or controls at least 25 percent of its ownership interests.[26] Since the interim rule, and now permanently, the reporting company is exempt from reporting the information of any beneficial owner or company applicant who is a United States person, and U.S. persons are exempt from providing it.[27] The deadlines are

[21] U.S. Gov't Accountability Office, GAO-26-107967, Corporate Transparency: Treasury Should Address Gaps in Ownership Information Resulting from Expanded Exemptions (May 29, 2026).

[22] 31 C.F.R. § 1010.380(c)(1)(ii).

[23] 31 C.F.R. § 1010.380(c)(1)(ii)(C) (registration by the filing of a document with a secretary of state or similar office).

[24] 31 C.F.R. § 1010.380(c)(2)(i) to (xxiii); large operating company at (c)(2)(xxi); subsidiary of certain exempt entities at (c)(2)(xxii).

[25] 31 C.F.R. § 1010.380(b)(1). Company applicant information is required only of companies registered on or after January 1, 2024; see 31 C.F.R. § 1010.380(b)(2)(iv).

[26] 31 C.F.R. § 1010.380(d); 31 U.S.C. § 5336(a)(3).

[27] 31 C.F.R. § 1010.380(b)(5)(i), (ii).

short. An entity that becomes a reporting company on or after March 26, 2025 files within 30 calendar days of the earlier of actual notice that its registration is effective or the first public notice of it by the secretary of state; entities registered before that date had until April 25, 2025; an entity that ceases to qualify for an exemption files within 30 days of ceasing to qualify.[28] Any change in reported information, including a change in who the beneficial owners are, requires an updated report within 30 calendar days of the change, and an inaccurate report must be corrected within 30 calendar days after the company becomes aware or has reason to know of the inaccuracy, with a statutory safe harbor for a corrected report submitted voluntarily, promptly, and within 90 days of the original filing.[29] An individual who appears in several filings may obtain a FinCEN identifier and report it in place of the personal information; an identifier holder who is not a U.S. person must update or correct the underlying information within 30 days of a change.[30] The update duty is continuous, which a one-time filing calendar does not capture. Willful failures to report, and willful reporting of false information, carry a civil penalty of up to $606 for each day the violation continues, as most recently adjusted for inflation in January 2025, and criminal penalties of a fine of up to $10,000, imprisonment for up to two years, or both.[31] The final rule left the penalty provisions unchanged and restated FinCEN's position that enforcement is directed at willful conduct rather than at inadvertent error.[32]

Two analytical layers deserve emphasis for this readership. Substantial control is not a percentage. A senior officer, an individual with authority over the appointment or removal of any senior officer or of a majority of the board, an individual who directs, determines, or has substantial influence over important decisions, and an individual with any other form of substantial control are all beneficial owners regardless of ownership, a definition that brings within its scope protectors, appointors, family members holding veto or consent rights, and the governance figures of private structures.[33] Ownership through trusts is traced, not blocked. Where a trust or similar arrangement holds the ownership interest, the interest is attributed to a trustee or other individual with authority to dispose of trust assets, to a beneficiary who is the sole permissible recipient of income and principal or who may demand a distribution of or withdraw substantially all of the trust's assets, and to a grantor or settlor who has the right to revoke the trust or otherwise withdraw its assets.[34] The settlor of a revocable trust above a registered foreign blocker is therefore a beneficial owner; the trustee of a discretionary trust typically is; a discretionary beneficiary with no withdrawal right is not, unless a consent power brings the beneficiary within the substantial control test. Three exceptions matter to estate practice: a minor child is not reported if a parent or legal guardian is; an individual whose only interest is a future interest through a right of inheritance is not a beneficial owner; and an individual acting as nominee, intermediary, custodian, or agent for another is not, the principal being reported instead.[35] On the death of a beneficial owner,

[28] 31 C.F.R. § 1010.380(a)(1)(i) to (iii).

[29] 31 C.F.R. § 1010.380(a)(2), (a)(3); 31 U.S.C. § 5336(h)(3)(C)(i).

[30] 31 C.F.R. § 1010.380(b)(4)(i) to (iii).

[31] 31 U.S.C. § 5336(h)(3)(A); 31 C.F.R. § 1010.380(g); 31 C.F.R. § 1010.821 (penalty adjustment table), as amended by 90 Fed. Reg. 5630 (Jan. 17, 2025).

[32] 91 Fed. Reg. 52508 (preamble, reporting violations).

[33] 31 C.F.R. § 1010.380(d)(1)(i)(A) to (D).

[34] 31 C.F.R. § 1010.380(d)(2)(ii)(C)(1) to (3).

[35] 31 C.F.R. § 1010.380(d)(3)(i), (ii), (iv).

the change in beneficial ownership is deemed to occur when the estate is settled, whether by the operation of intestacy rules or by testamentary disposition, so that the 30-day update clock runs from settlement rather than from the date of death; when a reported minor attains majority, the change is deemed to occur on that date.[36] For the non-U.S. families this readership serves, the U.S. person exclusion has practical effect in mixed families: the daughter who has become a U.S. income tax resident is not reported even where the structure makes her a 25 percent owner or a protector, and her change of status, whether a green card obtained or citizenship relinquished, changes the filing.[37] The foreign settlor, the foreign trustee, and the foreign protector of a registered structure are exactly the persons the surviving rule was retained to identify. The table below sets the structures this readership administers against the rule as it now stands.

Structure	Status under the Corporate Transparency Act after the final rule	What still applies
Domestic LLC holding U.S. real estate (the base layer of a situs blocker)	Exempt: domestic entities are not reporting companies (31 C.F.R. § 1010.380(c)(2)(xxiv)); information filed in 2024 is to be deleted.	Form 5472 with a pro forma Form 1120 if foreign-owned and disregarded; the customer due diligence rule at every account opening; the residential real estate rule on any non-financed purchase if reinstated on appeal; state annual reports and franchise taxes.
Foreign corporation holding U.S. assets, never registered in a state	Not a reporting company: registration, not asset ownership, triggers the rule.	Customer due diligence at U.S. banks and brokers; Form W-8BEN-E documentation under FATCA; reporting of its controlling persons under the Common Reporting Standard by non-U.S. institutions; Forms 1120-F and 5472 where it is engaged in a U.S. trade or business.
Foreign blocker, holding company, or trust company registered to do business in a state	Foreign reporting company: initial report within 30 days of registration (or by April 25, 2025 if registered earlier); non-U.S. beneficial owners under the substantial control and 25 percent tests; U.S. persons excluded; 30-day update and correction duties.	Everything in the preceding row, and New York's LLC Transparency Act if it is an LLC authorized in New York (initial filing by December 31, 2026 for pre-2026 authorizations, within 30 days for new ones, annually thereafter).

[36] 31 C.F.R. § 1010.380(a)(2)(iii), (iv).

[37] 31 C.F.R. § 1010.380(f)(10); I.R.C. § 7701(a)(30)(A), (b).

Structure	Status under the Corporate Transparency Act after the final rule	What still applies
Trust (common law, not created by a state filing)	Not a reporting company, but traced through as an owner of reporting companies: settlor with a power of revocation, trustee or other person with power to dispose, sole-benefit or withdrawal beneficiaries; a protector is reached through substantial control.	Not a legal entity customer under the customer due diligence rule, but its trustees are identified under the bank's customer identification program; controlling persons reported under the Common Reporting Standard by non-U.S. institutions; Forms 3520 and 3520-A where the trust is foreign and a U.S. person is its owner or beneficiary; the residential real estate rule on any non-financed purchase if reinstated.
Domestic private trust company	Formerly a classic reporting company; exempt since March 26, 2025 as a domestic entity, permanently since August 14, 2026.	State trust company regulation and licensing; customer due diligence as a bank customer; through its trusteeship, its officers appear as beneficial owners of any registered foreign reporting company its trusts own; any future re-scoping of the federal rule.
Foreign private trust company or corporate trustee registered in a state	Foreign reporting company; the substantial control analysis reaches the family members who govern it.	State trust company licensing; customer due diligence; the trust attribution rules where it serves as trustee of owners of other reporting companies.

Sources: 31 C.F.R. § 1010.380 as amended by 91 Fed. Reg. 52508 (Aug. 14, 2026); 31 C.F.R. § 1010.230; 31 C.F.R. § 1031.320 (vacated Mar. 19, 2026, on appeal); I.R.C. §§ 6038A, 6038C, 6048; N.Y. Limited Liability Company Law §§ 1106 to 1108.

Part III. Blockers, holding companies, trusts, and private trust companies under the final rule

Applied to the standard architecture of cross-border holding structures, the final rule produces simpler results than the 2024 regime, with several qualifications. The domestic real estate LLC, the first layer under many foreign-owned properties, files nothing with FinCEN, and the information it filed in 2024 is to be deleted;[38] the privacy gain is smaller than clients assume, because Form 5472 already delivers its foreign owner to the IRS every year, its bank collected certified beneficial ownership at onboarding under the customer due diligence rule and will refresh it on a risk basis, and its next non-financed purchase will generate a Real Estate Report if the residential real estate rule is reinstated on appeal. The unregistered foreign blocker, the British Virgin Islands or Panama corporation holding the brokerage account or, in older structures, the condominium, sits wholly outside the Corporate Transparency Act, as it always did; the planning point is to keep it outside, because casual state registration, whether at a property manager's suggestion, on a lender's requirement, or as a licensing formality, converts it into a foreign reporting company with a 30-day filing deadline.[39] Where registration is unavoidable because the

[38] 31 C.F.R. § 1010.380(c)(2)(xxiv); 91 Fed. Reg. 52508 (deletion of previously reported information).

[39] 31 C.F.R. § 1010.380(a)(1)(i), (c)(1)(ii).

blocker operates, leases, or borrows in the state, the filing is built deliberately: the ownership chain above the blocker is traced through the holding companies and trusts to individuals; the substantial control test brings within its scope protectors and appointors the family may regard as outside the structure; the U.S. person exclusion is applied precisely and documented, since it turns on income tax residence rather than on citizenship alone; and the 30-day update duty is assigned to a named person, because trustee successions, protector changes, distribution events, and deaths at the level of the trusts all change the answer at the level of the company.[40]

Private trust companies deserve separate treatment because the change was largest there. The family private trust company, a South Dakota, Nevada, or Wyoming LLC or corporation serving as trustee of the family's trusts, was a reporting company in the ordinary case under the 2022 rule: the bank exemption covered it only where its charter and supervision brought it within the Investment Company Act's definition of a bank, which the lightly regulated or unregulated private trust company charters of several states did not,[41] and its beneficial ownership analysis was extensive: the substantial control test reached the family council, the distribution committee, and the family member whose consent the governing documents required. Since March 26, 2025 the domestic private trust company is exempt as a domestic entity, and the final rule made the exemption permanent.[42] Three cautions remain. A foreign private trust company or foreign corporate trustee that registers in a state is a foreign reporting company, and a structure defined by governance rights is what the substantial control test was written for.[43] The private trust company's own trusteeship makes it the traced-through trustee of any registered foreign reporting company its trusts hold, so that its officers can appear in another entity's filing while the company itself files nothing.[44] And in any re-scoping, whether by statute or by a later rule, the private trust company is the obvious candidate for recapture, because it is the vehicle in which control and confidentiality concentrate; a private trust company formed today should maintain a current beneficial ownership chart as a standing record.

A further point concerns trusts and estates directly. A trust is not a reporting company, because it is not created by a filing with a secretary of state, and this is as true of a foreign trust as of a domestic one; but a trust that owns a registered foreign reporting company is looked through, and the persons identified are the settlor holding a power of revocation, the trustee, any individual with power to dispose of trust assets, and a beneficiary entitled to all income and principal or able to withdraw substantially all of the assets.[45] An estate is not a reporting company either. On the death of a reported beneficial owner, the registered company's update is due 30 days after the estate is settled, and the heir whose only interest before settlement is a future interest through inheritance is not reported until then.[46] The practical consequence for the administration of a cross-border estate is a date to be diarized: the settlement of the estate is a reporting event for every registered foreign reporting company in which the decedent held a

[40] 31 C.F.R. § 1010.380(a)(2), (d)(1), (d)(2)(ii)(C), (f)(10).

[41] 31 U.S.C. § 5336(a)(11)(B)(iii); 31 C.F.R. § 1010.380(c)(2)(iii); 15 U.S.C. § 80a-2(a)(5).

[42] 31 C.F.R. § 1010.380(c)(2)(xxiv); 91 Fed. Reg. 52508.

[43] 31 C.F.R. § 1010.380(c)(1)(ii), (d)(1).

[44] 31 C.F.R. § 1010.380(d)(2)(ii)(C)(1).

[45] 31 C.F.R. § 1010.380(c)(1)(ii), (d)(2)(ii)(C).

[46] 31 C.F.R. § 1010.380(a)(2)(iii), (d)(3)(iv).

reportable interest, and the executor or the trustee of the succeeding trust should be identified in the file as the person who will make the filing.

Part IV. The customer due diligence rule as a separate and unaffected obligation

The final rule is a rule about reporting to FinCEN by reporting companies. It does not touch the customer due diligence rule of May 11, 2016 (the CDD rule), under which banks, broker-dealers, mutual funds, futures commission merchants, and introducing brokers must establish and maintain written procedures to identify and verify the beneficial owners of each legal entity customer at the time a new account is opened.[47] The preamble to the final rule states that the reporting rule and the customer due diligence rule serve different purposes and arise under different legal authorities, that the collection of beneficial ownership information at account opening remains an important anti-money laundering control, and that FinCEN, having completed the reporting rule, is still legally required to modify the customer due diligence rule under section 6403(d) of the statute and can now refocus on that rulemaking, without a stated timeline.[48]

The two rules define beneficial ownership differently, and the difference matters for trusts. Under the customer due diligence rule a beneficial owner is each individual who owns, directly or indirectly, 25 percent or more of the equity interests of the legal entity customer, and a single individual with significant responsibility to control, manage, or direct it, such as an executive officer or senior manager; where a trust owns 25 percent or more of the equity interests, the trustee is the beneficial owner for the ownership prong.[49] The institution obtains the information on a certification form or its equivalent from the individual opening the account, verifies the identity of each beneficial owner through documentary or non-documentary methods, and may rely on the certification absent knowledge of facts that would reasonably call it into question.[50] A legal entity customer is a corporation, limited liability company, or other entity created by a filing with a secretary of state or similar office, a general partnership, or a similar entity formed under foreign law; a trust other than a statutory trust is not a legal entity customer, so that the common law trust opening an account is identified under the institution's customer identification program and its trustees are identified as the persons acting for it, but information on its settlor and beneficiaries is not collected under the beneficial ownership rule.[51] The domestic and foreign entities that the final rule removed from FinCEN's database are therefore still identified, at the natural-person level, by every bank and broker with which they hold an account; what the final rule removed is the second, centralized copy.

FinCEN has adjusted the rule's operation once in 2026. The exceptive relief order of February 13, 2026 relieves covered institutions of the obligation to identify and verify beneficial owners again at each new account opened by an existing legal entity customer, permitting them instead to rely on previously obtained

[47] Customer Due Diligence Requirements for Financial Institutions, 81 Fed. Reg. 29398 (May 11, 2016), codified at 31 C.F.R. § 1010.230, applicable since May 11, 2018.

[48] 91 Fed. Reg. 52508 (preamble, comments concerning the CDD rule); Pub. L. No. 116-283, § 6403(d)(1) (requiring revision of the CDD rule within one year after the effective date of the reporting regulations).

[49] 31 C.F.R. § 1010.230(d)(1) to (3).

[50] 31 C.F.R. § 1010.230(b).

[51] 31 C.F.R. § 1010.230(e)(1), (e)(2); 31 C.F.R. § 1020.220 (customer identification programs for banks).

information where the customer certifies or confirms that it remains current, to verify again when facts call the earlier information into question, and to refresh on a risk basis as part of ongoing due diligence.[52] The order changes the frequency of verification, not the existence of the obligation. The revision that section 6403(d) requires was due one year after the reporting rule took effect, that is, by January 1, 2025, and has not been proposed; FinCEN's statement that it will refocus on that rulemaking is the only current indication of direction.[53] Until it acts, the certification collected at every account opening remains the most complete beneficial ownership record that any U.S. authority can reach for a domestic entity, and it is reached by examination, subpoena, and suspicious activity reporting rather than by database query.[54] The comparison below sets the four regimes that matter most to this readership side by side.

	Corporate Transparency Act reporting rule (after the final rule)	**Customer due diligence rule**	**New York LLC Transparency Act**	**Form 5472**
Authority	31 U.S.C. § 5336; 31 C.F.R. § 1010.380, as amended by 91 Fed. Reg. 52508 (Aug. 14, 2026)	31 U.S.C. § 5318(a)(2), (h); 31 C.F.R. § 1010.230 (applicable since May 11, 2018); FIN-2026-R001	N.Y. Limited Liability Company Law §§ 1106 to 1108 (in force Jan. 1, 2026)	I.R.C. §§ 6038A and 6038C; Treas. Reg. § 1.6038A-1(c)(1)
Who reports	The foreign reporting company itself, to FinCEN	The covered financial institution collects from the legal entity customer at account opening	The foreign-country LLC authorized in New York, to the Department of State	The reporting corporation (for a foreign-owned domestic disregarded entity, treated as a corporation, with a pro forma Form 1120) to the IRS
Entities covered	Entities formed under foreign law and registered in a state; every domestic entity exempt	Domestic and foreign corporations, LLCs, general and limited partnerships, and similar entities; trusts other than statutory trusts excluded	LLCs formed under the law of a foreign country and authorized in New York; U.S.-formed LLCs excluded	Domestic disregarded entities wholly owned by one foreign person; 25 percent foreign-owned U.S. corporations; foreign corporations engaged in a U.S. trade or business
Owners identified	Non-U.S. persons with substantial control or 25 percent of ownership interests; U.S. persons excluded	Each individual with 25 percent or more of equity, and one individual in control; no exclusion of U.S. persons	Beneficial owners under the federal definition; U.S. beneficial owners not reported under the Department of State's guidance	The foreign owner, and transactions with related parties

[52] FinCEN, Exceptive Relief from Certain Beneficial Ownership Identification and Verification Requirements of the Customer Due Diligence Rule, FIN-2026-R001 (Feb. 13, 2026).

[53] Pub. L. No. 116-283, § 6403(d)(1); 91 Fed. Reg. 52508 (preamble, comments concerning the CDD rule).

[54] 31 U.S.C. § 5318(g); 31 C.F.R. § 1020.320 (reports by banks of suspicious transactions).

	Corporate Transparency Act reporting rule (after the final rule)	Customer due diligence rule	New York LLC Transparency Act	Form 5472
Trusts	Traced through to the settlor with a power of revocation, the trustee, and sole-benefit or withdrawal beneficiaries	The trustee is the beneficial owner of a 25 percent trust holding; the trust itself is not a legal entity customer	Federal trust attribution rules apply by cross-reference	A foreign trust owning the entity is the reported foreign owner
Timing	30 days after registration; updates and corrections within 30 days	At account opening; refreshed on a risk basis and on certification for further accounts	By December 31, 2026 for pre-2026 authorizations; within 30 days for new ones; annually	Annually with the pro forma Form 1120 by its due date
Who sees it	Law enforcement and intelligence agencies; financial institutions with consent; regulators; foreign authorities through a federal agency	The institution and its examiners; law enforcement by legal process; suspicious activity reports	A nonpublic Department of State database; government agencies for law enforcement purposes; court order	The IRS; treaty partners on request under the exchange of information article
Sanction	Civil penalty up to $606 per day; criminal penalty up to two years and $10,000	Bank Secrecy Act civil and criminal penalties on the institution	Past due after 30 days; delinquent after two years; $250 fine; civil penalty up to $500 per day; suspension; cancellation	$25,000 per failure, and $25,000 for each 30-day period of continued failure after notice

Sources: 31 U.S.C. § 5336(h)(3); 31 C.F.R. §§ 1010.380, 1010.821, 1010.955; 31 C.F.R. § 1010.230 and FIN-2026-R001 (Feb. 13, 2026); N.Y. Limited Liability Company Law §§ 1106 to 1108 and N.Y. Dep't of State guidance (Dec. 31, 2025); I.R.C. §§ 6038A, 6038C and Treas. Reg. § 1.6038A-1(c)(1).

Part V. Other still applicable regimes: from New York and the vacated real estate rule to Form 5472, FATCA, and the CRS

New York enacted the LLC Transparency Act in December 2023 and rewrote it in March 2024 to take effect on January 1, 2026, defining its reporting companies and beneficial owners by reference to the federal statute.[55] Because the federal definition now reaches only foreign-formed entities, the New York act reaches only limited liability companies formed under the law of a foreign country and authorized to do business in New York; a bill that would have restored coverage of U.S.-formed LLCs, S. 8432, was vetoed by the Governor on December 19, 2025, days before the act took effect.[56] Such a company files a beneficial ownership disclosure with the Department of State by December 31, 2026 if it was authorized before January 1, 2026, and within 30 days of authorization otherwise, and files annually thereafter; the disclosure carries each beneficial owner's name, date of birth, address, and identifying document number; under the Department of State's guidance, U.S. beneficial owners are not reported; a

[55] N.Y. Limited Liability Company Law §§ 1106 to 1108, added by L. 2023, ch. 772 and amended by L. 2024, ch. 102.

[56] Veto of S. 8432 (Dec. 19, 2025); N.Y. Dep't of State, LLC Transparency Act guidance (Dec. 31, 2025).

company that qualifies for a federal exemption files an attestation of exemption on the same schedule; the fee is $25 per filing; and the database is nonpublic, accessible to government agencies for law enforcement purposes and by court order.[57] A company that fails to file is shown as past due after 30 days and as delinquent after two years, is exposed to a fine of $250 and to civil penalties of up to $500 per day in an action by the Attorney General, and may be suspended and ultimately have its authority cancelled.[58] The scope mirrors the federal rule for now; the lesson is structural. The legislature can broaden the act by a bill the Governor signs, and the December 31, 2026 deadline is the first fixed date under any beneficial ownership regime that a foreign LLC authorized in New York will meet.[59] No other state had enacted a comparable general regime as of this writing, although bills of similar design have been introduced in other legislatures in recent sessions;[60] state beneficial ownership law belongs on the state-selection checklist alongside franchise tax, charging-order protection, and trust company regulation.

FinCEN's residential real estate rule of August 29, 2024 required the settlement agent, or the next person in a seven-step cascade, to file a Real Estate Report identifying the beneficial owners of any legal entity or trust receiving residential real property in a non-financed transfer, meaning a transfer without an extension of credit secured by the property and extended by a financial institution subject to anti-money laundering program requirements, with exceptions for transfers by reason of death, divorce, or bankruptcy, easements, and transfers for no consideration to a trust of which the transferor is the settlor, among others; the report was due by the later of 30 days after closing or the last day of the following month; a transferee trust's beneficial owners were its trustees, individuals with power to dispose of its assets, sole-benefit and withdrawal beneficiaries, and settlors with a power of revocation.[61] Its effective date was postponed from December 1, 2025 to March 1, 2026 by an exemptive relief order of September 30, 2025, and it applied to transfers closing on or after March 1, 2026.[62] It applied for eighteen days. On March 19, 2026, the Eastern District of Texas held that the Bank Secrecy Act does not authorize FinCEN to treat an entire class of transactions as suspicious and to require their reporting, and vacated the rule nationwide;[63] one month earlier, the Middle District of Florida had reached the opposite conclusion and granted summary judgment to the government.[64] FinCEN filed its notice of appeal to the Fifth Circuit on May 11, 2026, and the Florida plaintiff's appeal is pending in the Eleventh Circuit; a conflict between the circuits and a further petition to the Supreme Court are the realistic medium-term expectations. FinCEN's guidance of May 18, 2026 states that reporting persons are not required to file Real Estate Reports and are not subject to liability for not filing while the

[57] N.Y. Limited Liability Company Law §§ 1106 to 1108; N.Y. Dep't of State, LLC Transparency Act guidance (Dec. 31, 2025).

[58] N.Y. Limited Liability Company Law §§ 1106 to 1108.

[59] N.Y. Limited Liability Company Law §§ 1106 to 1108; N.Y. Dep't of State, LLC Transparency Act guidance (Dec. 31, 2025).

[60] See GAO-26-107967 (May 29, 2026) (surveying the variation in state-level ownership information requirements).

[61] Anti-Money Laundering Regulations for Residential Real Estate Transfers, 89 Fed. Reg. 70258 (Aug. 29, 2024), codified at 31 C.F.R. § 1031.320(b), (c), (k), (n).

[62] FinCEN, Exemptive Relief Order to Delay the Effective Date of the Residential Real Estate Rule (Sept. 30, 2025), issued under 31 U.S.C. § 5318(a)(7) and 31 C.F.R. § 1010.970(a).

[63] *Flowers Title Cos., LLC v. Bessent*, No. 6:25-cv-127 (E.D. Tex. Mar. 19, 2026).

[64] *Fidelity Nat'l Fin., Inc. v. Bessent* (M.D. Fla. Feb. 19, 2026), appeal filed (11th Cir. Apr. 18, 2026).

vacatur order remains in force, and that if the rule regains effect, reports will not be required for transfers closed while that order was in force.[65] The consequence for the cash purchase of a Miami condominium through the family's LLC or trust is a suspended rather than an abolished reporting event: no report is due today; the closing-table certification process, the trust attribution analysis, and the family's expectations should be kept ready, because a reversal on appeal would reinstate the rule for closings after the mandate issues.

The Internal Revenue Service's own ownership disclosures never depended on the Corporate Transparency Act. A domestic disregarded entity wholly owned by one foreign person is treated as a domestic corporation for the purposes of section 6038A, must obtain an employer identification number, and files Form 5472 with a pro forma Form 1120 each year, identifying its foreign owner and reporting its transactions with related parties, under a penalty of $25,000 for each failure and a further $25,000 for each 30-day period of continued failure after notice.[66] Form 1120-F for the foreign corporation engaged in a U.S. trade or business, Form 706-NA on the death of a nonresident non-citizen holding U.S. situs assets, and Forms 3520 and 3520-A where a U.S. person owns, transfers property to, or receives distributions from a foreign trust each discloses ownership under its own rules, and the information in each of them may be requested by a treaty partner under the exchange of information article of the applicable income tax treaty.[67]

Automatic exchange operates independently of the Corporate Transparency Act, on two systems that differ in what they carry. Under FATCA, financial institutions in the countries in the table below report the accounts of U.S. persons to their own tax administrations for transmission to the IRS (Model 1) or, in Austria and for now in Switzerland, directly to the IRS (Model 2); U.S. financial institutions, in turn, document every foreign entity account holder on Form W-8BEN-E and report to the IRS the substantial U.S. owners of passive non-financial foreign entities, but they report nothing to any foreign country except under a reciprocal intergovernmental agreement.[68] The reciprocal Model 1 agreements, which the United States has with ten of the twelve countries in the table, oblige the IRS to transmit, for accounts maintained by a U.S. financial institution, the name, address, and taxpayer identification number of an account holder resident in the partner country, the account number, the gross interest paid on a depository account held by a resident individual, the gross U.S. source dividends, and the gross other U.S. source income paid to the account to the extent it is subject to reporting under chapter 3 or chapter 61 of the Internal Revenue Code; they carry neither account balances nor gross proceeds, and they do not look through a U.S. entity to its controlling persons, an asymmetry the agreements acknowledge in a commitment to pursue equivalent reciprocity that Congress has never enacted.[69] The Delaware LLC of a

[65] FinCEN, Residential Real Estate Frequently Asked Questions (updated May 18, 2026).

[66] I.R.C. § 6038A(a), (d); Treas. Reg. § 1.6038A-1(c)(1), as amended by T.D. 9796, 81 Fed. Reg. 89849 (Dec. 13, 2016); Form 5472 and Instructions.

[67] I.R.C. §§ 6012, 6018, 6048; the exchange of information articles of twelve treaties are listed in the FATCA and CRS table in this Part.

[68] I.R.C. §§ 1471 to 1474; Treas. Reg. §§ 1.1471-3 (identification of payee) and 1.1474-1(i) (reporting of substantial U.S. owners of passive non-financial foreign entities); U.S. Dep't of the Treasury, FATCA Resource Center, list of intergovernmental agreements (models, dates of signature and entry into force).

[69] Reciprocal Model 1 Intergovernmental Agreement, art. 2(2)(b) and art. 6(1) (Treasury model text); Treas.

German family with an account at a U.S. bank is therefore not reported to Germany under FATCA at all: the account holder is a U.S. entity, not a German resident. The Common Reporting Standard, in which the United States does not participate, runs among the other countries: a non-U.S. financial institution reports to its own tax administration, for onward exchange, the accounts of individuals resident in other participating jurisdictions and the controlling persons of passive non-financial entities, a category that includes the settlor, trustees, protector, and beneficiaries of a trust and the controlling persons of a U.S. limited liability company that holds an account outside the United States.[70] The same family's Zurich or Luxembourg account, held through the same Delaware LLC, is reported to Germany with the German parent named. The resulting position is uneven and must be stated as such to clients: the home country's tax administration sees the family's non-U.S. accounts through the Common Reporting Standard in full, sees its own residents' direct U.S. accounts under FATCA in part, and sees the accounts of the U.S. entities the family owns only on request under the treaty.

Country	FATCA intergovernmental agreement	Transmitted by the IRS automatically	CRS, first exchange	Exchange of information on request (income tax treaty)
Germany	Model 1, reciprocal; signed May 31, 2013; in force December 11, 2013	Resident account holders' U.S. source income and depository interest; no balances; no look-through of U.S. entities	2017	Art. 26, Convention of August 29, 1989, as amended by the Protocol of June 1, 2006
France	Model 1, reciprocal; signed November 14, 2013; in force October 14, 2014	As for Germany	2017	Art. 27, Convention of August 31, 1994, as amended by the Protocol of January 13, 2009
United Kingdom	Model 1, reciprocal; signed September 12, 2012; in force August 11, 2014	As for Germany	2017	Art. 27, Convention of July 24, 2001
Italy	Model 1, reciprocal; signed January 10, 2014; in force August 17, 2015	As for Germany	2017	Art. 26, Convention of August 25, 1999
Switzerland	Model 2, in force June 2, 2014; reciprocal Model 1 agreement signed June 27, 2024, earliest entry into force January 1, 2029	Nothing until the Model 1 agreement enters into force	2018	Art. 26, Convention of October 2, 1996, as amended by the Protocol of September 23, 2009
Netherlands	Model 1, reciprocal; signed December 18, 2013; in force April 9, 2015	As for Germany	2017	Art. 30, Convention of December 18, 1992

Reg. § 1.6049-8 (deposit interest paid to nonresident alien individuals resident in listed countries).

[70] OECD, Standard for Automatic Exchange of Financial Account Information in Tax Matters (2014), Common Reporting Standard, §§ I and VIII(D)(6); Council Directive 2014/107/EU of 9 December 2014 (DAC2); Swiss Federal Act on the International Automatic Exchange of Information in Tax Matters of 18 December 2015; Income Tax Act (Canada), Part XIX.

Country	FATCA intergovernmental agreement	Transmitted by the IRS automatically	CRS, first exchange	Exchange of information on request (income tax treaty)
Belgium	Model 1, reciprocal; signed April 23, 2014; in force December 23, 2016	As for Germany	2017	Art. 25, Convention of November 27, 2006
Spain	Model 1, reciprocal; signed May 14, 2013; in force December 9, 2013	As for Germany	2017	Art. 27, Convention of February 22, 1990, as amended by the Protocol of January 14, 2013
Austria	Model 2; signed April 29, 2014; in force December 9, 2014	Nothing	2018	Art. 25, Convention of May 31, 1996
Luxembourg	Model 1, reciprocal; signed March 28, 2014; in force July 29, 2015	As for Germany	2017	Art. 28, Convention of April 3, 1996, as amended by the Protocol of May 20, 2009
Ireland	Model 1, reciprocal; signed January 23, 2013; in force April 2, 2014	As for Germany	2017	Art. 27, Convention of July 28, 1997
Canada	Model 1, reciprocal; signed February 5, 2014; in force June 27, 2014	As for Germany	2018	Art. XXVII, Convention of September 26, 1980, as amended through the Fifth Protocol of September 21, 2007

Sources: U.S. Department of the Treasury, FATCA Resource Center (intergovernmental agreements, models and dates); Swiss State Secretariat for International Finance, FATCA agreement (June 29, 2026) (Model 1 agreement signed June 27, 2024, earliest entry into force January 1, 2029); reciprocal Model 1 IGA art. 2(2)(b); OECD, AEOI status of commitments (first exchanges 2017 and 2018); the conventions and protocols as published by the IRS and the Treasury Department.

Part VI. Current best practices in light of possible changes

The conclusion for structure design is not relaxation; it is reversibility. Five disciplines follow. The first is a current beneficial ownership file even where no filing is due: every structure holds, in one place, its ownership chart to natural persons, the substantial control inventory (officers, protectors, appointors, veto and consent holders), identity documents, and the U.S. person analysis with its income tax residence basis, so that counsel could file within 30 days if a statute, a later rule, a state act, or a reinstated real estate rule re-scopes coverage; the same file answers the bank's certification at the next account opening and the settlement agent's certification at the next closing. The second is that state registration is treated as a decision rather than a formality: for a foreign entity, registration in a state is the event that creates the federal reporting obligation,[71] so it is decided deliberately, inherited registrations are reviewed and withdrawn where nothing requires them, and a new business need is routed through a domestic subsidiary where the analysis favors it, the domestic subsidiary being exempt from the federal rule but not from Form 5472, the customer due diligence rule, or a state act. The third is that the update duty is assigned by name: the obligations that exist, for registered foreign companies under the federal rule, for foreign LLCs under New York's act, and for FinCEN identifier holders who are not U.S. persons, carry 30-day deadlines that continue

[71] 31 C.F.R. § 1010.380(c)(1)(ii).

after the closing of the transaction and are triggered at the level of the trusts by successions, distributions, deaths, and changes of residence.[72] The fourth is that the real estate rule is sequenced into every acquisition while it is suspended: the certification of the transferee's beneficial owners, the trust attribution analysis, and the family's expectations are settled before contract, so that a reinstatement between contract and closing changes a form rather than a plan. The fifth is exactness in the advice on expectations: privacy-motivated structuring has legitimate work to do in deterring casual searches, separating liability, and keeping names off deeds and public registries; against governments it is compliance planning, and a client told that the final rule restored anonymity has been advised incorrectly.

Part VII. Practice points

1. **State the current rule precisely.** Since August 14, 2026 the federal rule reaches only foreign-formed entities registered in a U.S. state and never U.S. person owners or applicants; it is a final rule, but two certiorari petitions, two codification bills, a GAO recommendation, and a pending revision of the customer due diligence rule leave the field unsettled.[73] Date every piece of advice.
2. **Audit every structure's registration footprint.** Registration, not asset ownership, is the trigger. Inventory which foreign entities are qualified in which states, withdraw the registrations nothing requires, and treat each new one as a compliance event with a 30-day filing deadline.[74]
3. **Run the trust attribution analysis before FinCEN does.** Settlors with a power of revocation, trustees and other persons with power to dispose, and sole-benefit or withdrawal beneficiaries are reported as owners of registered companies; protectors and consent holders are reached through substantial control; heirs are reported once the estate is settled. They are identified before a filing is due, not after.[75]
4. **Apply the U.S. person exclusion on the tax definition.** The exclusion turns on section 7701(a)(30), so residence under the substantial presence test and lawful permanent residence count as much as citizenship; document the analysis and diarize the status changes that will change the filing.[76]
5. **Keep the customer due diligence file separate and current.** The bank's certification is an obligation of the institution, unaffected by the final rule, refreshed on a risk basis under FIN-2026-R001, and subject to a revision FinCEN has said it will resume.[77] The file assembled for the Corporate Transparency Act answers it.
6. **Meet New York's December 31, 2026 deadline.** Foreign-country LLCs authorized in New York before 2026 file their first disclosure or attestation by that date, new ones within 30 days, and all of them annually; past due, delinquent,

[72] 31 C.F.R. § 1010.380(a)(2), (b)(4)(iii); N.Y. Limited Liability Company Law §§ 1106 to 1108.

[73] 91 Fed. Reg. 52508; Nos. 25-1201 and 25-1290 (U.S.); H.R. 425 and S. 4419, 119th Cong.; GAO-26-107967.

[74] 31 C.F.R. § 1010.380(a)(1)(i), (c)(1)(ii).

[75] 31 C.F.R. § 1010.380(a)(2)(iii), (d)(1), (d)(2)(ii)(C), (d)(3)(iv).

[76] 31 C.F.R. § 1010.380(f)(10); I.R.C. § 7701(a)(30), (b).

[77] 31 C.F.R. § 1010.230; FIN-2026-R001 (Feb. 13, 2026); 91 Fed. Reg. 52508.

suspended, and cancelled is the statutory sequence.[78]

7. **Plan every non-financed closing as if the real estate rule returns.** No Real Estate Report is due while the vacatur stands and none will be required retroactively; the certification process is kept ready for the first closing after a reversal in the Fifth Circuit takes effect.[79]
8. **Never describe an exemption as anonymity.** Form 5472, the customer due diligence rule, New York's act, FATCA's reciprocal agreements, and the Common Reporting Standard each see part of the structure; privacy planning is liability and publicity management and is described as exactly that.

Conclusion

The final rule of August 2026 leaves the Corporate Transparency Act in a position its drafters did not intend: the broadest corporate disclosure statute in American history operates as a narrow rule about foreign-formed registrants, its constitutionality argued in two petitions before the Supreme Court, its codification reported from committee by a single vote and awaiting a floor vote, and its companion rule for residential real estate vacated and under appeal. For cross-border practice the narrowed rule is neither a victory nor a reprieve; it is a redistribution of the work. The entities that still file are the entities of this practice: registered foreign blockers, holding companies, and trust companies, traced upward through the trusts, settlors, and protectors the substantial control test was written to find. The entities that no longer file federally answer instead to the customer due diligence rule at every account opening, to New York's act, to Form 5472, and to the exchange systems that carry the family's account data between tax administrations, none of which was narrowed in August 2026. The adviser's response is the one this field has required wherever its rules have been unsettled: comply exactly with what is in force, document as though the broader rule returns tomorrow, decide registrations and closings with the reporting consequences taken into account, and tell clients that what remains to be designed, lawfully and with skill, is not whether the structure will be known to an authority but which authority will know it, in what detail, and when.

Contact

Beneficial ownership reporting for cross-border structures is now governed by several regimes at once: a federal Corporate Transparency Act confined, since the final rule of August 2026, to foreign-formed entities registered in U.S. states and to their non-U.S. owners; the customer due diligence rule that every bank and broker continues to apply; New York's LLC Transparency Act with its December 31, 2026 deadline; a residential real estate rule vacated in March 2026 and under appeal; and the IRS's own ownership disclosures beside FATCA and the Common Reporting Standard. **Ashford International Law PC advises business owners, fiduciaries, and their advisers** across the whole map: registration-footprint audits and beneficial ownership files for existing structures, Corporate Transparency Act and New York filings for registered foreign entities, trust attribution and substantial control analyses, customer due diligence and closing-table certifications, and the design of

[78] N.Y. Limited Liability Company Law §§ 1106 to 1108.

[79] *Flowers Title Cos., LLC v. Bessent*, No. 6:25-cv-127 (E.D. Tex. Mar. 19, 2026); FinCEN, Residential Real Estate Frequently Asked Questions (updated May 18, 2026).

blockers, holding companies, and private trust companies that will remain compliant through the regime's next change.

The firm is led by attorney **Caroline Esche Ashford, PhD, JD**. A graduate of Columbia University Law School, her practice focuses on international estate planning and the cross-border taxation and administration of estates and trusts, including the reporting and compliance obligations of cross-border holding structures. Dr. Ashford is also licensed to practice law in Germany. She advises in French and German as well as English.

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This article is intended for general educational purposes for U.S. and foreign estate planners, fiduciaries, and their clients and does not constitute legal or tax advice, nor does it create an attorney-client relationship. The matters described, the Corporate Transparency Act (31 U.S.C. § 5336) and FinCEN's beneficial ownership reporting regulations (31 C.F.R. § 1010.380) as amended by the interim final rule of March 26, 2025 and the final rule issued August 11, 2026 and effective August 14, 2026, including their definitions, exemptions, deadlines, penalty provisions, and United States person exclusions; the beneficial ownership access rule (31 C.F.R. § 1010.955); the pending petitions for certiorari in Nos. 25-1201 and 25-1290, the appeals held in abeyance, and the bills pending in Congress, any of which may change the rules described here; the customer due diligence rule (31 C.F.R. § 1010.230) and exceptive relief order FIN-2026-R001; New York's LLC Transparency Act (N.Y. Limited Liability Company Law §§ 1106 to 1108); FinCEN's residential real estate rule (31 C.F.R. § 1031.320) as vacated on March 19, 2026 and under appeal; Forms 5472, 1120, 1120-F, 706-NA, 3520, and 3520-A; the FATCA intergovernmental agreements and the Common Reporting Standard; and the exchange of information articles of the income tax treaties cited, depend on the specific facts, entities, states, and countries concerned and on the law in effect at the relevant time, and they change. Statuses are stated as of September 2026 and must be confirmed before any filing or structuring decision. Nothing here is advice on any particular structure or filing. Confirm every point with qualified counsel and current law before acting.

#CorporateTransparencyAct #CTA #FinCEN #BeneficialOwnership #BOI #FinalRule #ForeignReportingCompany #SubstantialControl #TrustAttribution #Blockers #HoldingCompanies #PrivateTrustCompany #PTC #CustomerDueDiligence #CDD #NYLLCTransparencyAct #ResidentialRealEstateRule #Form5472 #FATCA #CRS #CrossBorderStructures #CompliancePlanning #InternationalEstatePlanning