

# CALIFORNIA PRACTICE GUIDE CORPORATIONS 2025 UPDATE

**The 2025 softbound update completely replaces the 2024 update.**

These Highlights summarize the most significant developments over the past year. The paragraph numbers are keyed to the 2025 edition of the Practice Guide where the topics are discussed in greater detail.

Our cut-off date for this Update was June 1, 2025. Some of the new cases cited were not final as of that date, so be sure to check the subsequent histories before citing or relying on them.

***Thank you!*** As always, we appreciate your comments and suggestions regarding this Practice Guide. *Please keep them coming!*

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## 2025 UPDATE HIGHLIGHTS

### CHAPTER 2

#### SUBSTANTIVE LAW CONSIDERATIONS IN CHOOSING BUSINESS ENTITY: TAX AND NONTAX FACTORS

##### Formation Costs—Nontax Consequences

- [2:81.1] **Federal FinCEN reporting requirements:** Pursuant to the federal Corporate Transparency Act (CTA), starting March 26, 2025, foreign corporations (as well as foreign limited liability companies and other foreign entities) doing business in the United States are required (unless exempt) to register “beneficial ownership information” (BOI) with the United States Treasury Department’s Financial Crimes Enforcement Network (FinCEN). [See 31 USC §5336; 31 CFR §1010.380; *see also* ¶4:531 *ff.*]

##### Professional Corporations—Special Considerations

- [2:310.1] **“Sunset” date for architecture, engineering, and land surveying LLPs:** Authorization for a limited liability partnership (LLP) to engage in the practice of architecture, engineering, or land surveying terminates on January 1, 2034. [Amended Corps.C. §16101(b), (c)]

### CHAPTER 3

#### PREINCORPORATION PLANNING

##### Buy-Out Agreements

- [3:222.1] **Effect of insurance proceeds on valuation:** Life insurance proceeds payable to a corporation are an asset that increases the corporation’s fair market value, and the contractual obligation to redeem a shareholder’s equity interests in exchange for the life insurance proceeds does not reduce the value of those shares. [*Connelly v. United States* (2024) 602 US 257, 265, 144 S.Ct. 1406, 1412]

### CHAPTER 4

#### FORMING THE CORPORATION

##### Corporate Transparency Act

- [4:531 *ff.*] **General requirements:** Starting March 26, 2025, under the federal Corporate Transparency Act (CTA), corporations, limited liability companies, and other entities formed under the law of a foreign country and registered to do business in the United States must register “beneficial ownership information” with the United States Treasury Department’s Financial Crimes Enforcement Network (FinCEN). [See 31 USC §5336(h); 31 CFR §1010.380(c); *see also* ¶2:81.1]

**Caution:** As of the date of this publication, numerous lawsuits challenging the CTA’s constitutionality resulted in several countrywide injunctions on its enforcement (*see, e.g., Texas Top Cop Shop, Inc. v. Garland* (ED TX 2024) 758 F.Supp.3d 607, 663). As of

February 18, 2025, a stay was granted on the last remaining injunction on the enforcement of the CTA (*Smith v. United States Dept. of the Treasury* (ED TX 2025) 761 F.Supp.3d 953, 973-974). On March 2, 2025, the U.S. Treasury Department announced (1) it will not enforce any penalties or fines associated with beneficial ownership information reporting rules under the existing regulatory deadlines, and (2) it will not enforce any penalties or fines against U.S. citizens or domestic reporting companies or their beneficial owners, even after the current CTA rules take effect (<https://home.treasury.gov/news/press-releases/sb0038>). On March 26, 2025, the U.S. Treasury Department published an interim final rule that removes the requirement for U.S. companies and U.S. persons to report beneficial ownership information to FinCEN under the CTA. [31 CFR §1010.380]

- [4:533] **Exemptions:** Specific types of entities are exempt from the reporting requirements, including all domestic entities created under the laws of a U.S. State or Indian Tribe. [See 31 CFR §1010.380(c)(2)]
- [4:535] **Required initial report and timeframe:** [31 CFR §1010.380(a)(1)]

## CHAPTER 5

### SHARE ISSUANCE: SECURITIES LAW CONSIDERATIONS

#### Civil Liability for “Fraud” in Connection with Registered Offering

##### Who may sue

- [5:66] **Direct purchasers only:** A purchaser who purchases shares in a direct listing must trace the shares to the allegedly defective registration statement. [*Slack Technologies, LLC v. Pirani* (2023) 598 US 759, 768, 143 S.Ct. 1433, 1440-1441]
- [5:66.3] **Standing limited to purchasers and sellers of misrepresented security:** A shareholder of an issuer may not recover damages under SEA §10(b) caused by misstatements made by the CEO of an entity that the issuer seeks to acquire where the shareholder did not purchase or sell securities about which the CEO’s misrepresentations were made. [*In re: CCIV/Lucid Motors Secur. Litig.* (9th Cir. 2024) 110 F4th 1181, 1187—investors of company seeking to acquire electric vehicle manufacturer lacked standing where, during merger negotiations, CEO of manufacturer stated 6,000-7,000 vehicles would be produced in 2021, but on day merger was announced, disclosed only 577 were expected to be produced, causing acquiring company’s stock to drop]

## CHAPTER 6

### OPERATING PROBLEMS

#### Insider Trading

##### Private remedies

- [6:373n] **Proof of damages:** To establish causation between

the fraud and plaintiff's injury, plaintiff need only prove that the fraud was a substantial cause of the loss; the fraud need not have been the sole cause of the loss. [*In re Genius Brands Int'l, Inc. Secur. Litig.* (9th Cir. 2024) 97 F4th 1171, 1183]

## Particular Operating Problems

### Reporting requirements

- [6:561.7] **Disclaimer of proper authority related to unlawful use of personal identifying information in business entity filings:** Persons who learn their personal identifying information (PII) was used unlawfully in a business entity filing may pursue remedies, including filing a disclaimer of proper authority with the Secretary of State, which has been signed and verified under penalty of perjury and contains the information required by statute. [New Civ.C. §1798.203(a), (b)]

### Suspension of corporate powers

- [6:562] **Failure to remove PII from statement of information:** A California corporation's powers, rights, and privileges may be suspended for failure to update a statement of information to remove unlawfully used personal identifying information within 60 days of the Secretary of State's receipt of a judicial order to remove such information. [Amended Civ.C. §1798.202(g)]

## CHAPTER 8

### CORPORATE CHANGES AND DISSOLUTION

#### Effect of Merger

##### Data-sharing business

- [8:194.1] **Right to opt out of sharing personal information:** Under the "right to opt out," consumers can direct a business selling or sharing personal information not to share or sell the consumer's personal information. This extends to any business that acquires the data-sharing business as part of a merger, acquisition, bankruptcy, or other transaction in which the transferee assumes control of all or part of the transferor. [Amended Civ.C. §1798.120(a)(1), (2)]