

Corporate Transparency Act – What You Need to Know

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Beginning on January 1, 2024, the U.S. Treasury Department will be implementing heightened transparency disclosure requirements on US corporate entities. These new requirements include disclosing all beneficial owners of US corporate entities for the purpose of preventing white collar crime including money laundering, terrorism financing, and drug trafficking. The Corporate Transparency Act (“CTA”) was passed in early 2021 as part of the National Defense Authorization Act by the Financial Crimes Enforcement Network (“FinCEN”) which is a division of the U.S. Treasury Department.

REPORTING REQUIREMENTS

The CTA will require US corporate entities, such as corporations and LLCs, as well as other entities that fall under the CTA reporting requirements to disclose their ultimate Beneficial Owner Information (“BOI”). A beneficial owner is defined as an individual who, directly or

indirectly, either (i) exercises “substantial control” over a reporting company or (ii) owns or controls at least 25 percent of the ownership interests of a reporting company. Certain foreign entities registered to do business in the United States may also be required to file disclosures under the CTA. Although the CTA’s requirements cover a large range of companies, many entities will benefit from an exemption from the reporting requirement including financial institutions, companies with SEC reporting obligations, insurance companies, accounting firms, certain large operating companies, etc. BOI information that will be required includes the name(s) of the individuals that ultimately own the reporting company, their date of birth, address, and a government-issued identification. BOI requirements specify that it must be the individuals that ultimately own a reporting company that are disclosed, and not simply the identity of the shareholders or the members of an intermediary holding company.

TIMING OF DISCLOSURE FILINGS

Entities created before January 1, 2024, have until January 1, 2025, to file their initial BOI report while entities created after January 1, 2024, must file their initial BOI reports within 30 calendar days of their creation or registration. FinCEN recently issued a notice whereby this 30-day rule may be extended to 90 days for 2024 filings, and the 30-day period would apply for filings made during the 2025 year.

ELECTRONIC FILING

Filing BOI reports will be done electronically through an online interface. FinCEN is currently designing and building a new IT system

called the *Beneficial Ownership Secure System* to collect and store CTA reports, but this system will not be available for filing purposes until January 1st, 2024. According to FinCEN, the filing system will be secure, and the information provided to FinCEN will not be accessible by the public but may be disclosed to other government agencies.

MISTAKES AND CHANGES TO FILING

If any inaccuracies are identified in a BOI report already made by a reporting company, FinCEN has stated a correction must be made within 30 days. **This makes the reporting obligation a rolling requirement, and not merely an annual reporting mechanism.**

PENALTIES FOR FAILURE TO FILE

Deliberate non-compliance or providing false information to FinCEN can result in penalties up to \$500 for each day of the violation. Criminal penalties include imprisonment for up to two years and/or a fine up to \$10,000. Penalties are also applied to companies who are aware of or have reason to know of any error or inaccuracy in the information contained in any previously filed report and fail to correct it within 30 days.

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