

Corporate Transparency Act: An Update on Implementation

Article By:

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As previously discussed by our firm in August 2023 in an article titled, "***Corporate Transparency Act: A major shift in process ... are you ready to comply?***" in 2021, Congress passed the Corporate Transparency Act (the "Act") requiring reporting companies to provide certain company and beneficial ownership information to the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN), unless such entity falls within one of the 23 types of entities that are exempt from the reporting requirements. Without reciting all the details of that article, in broad strokes, a reporting company is a corporation, limited liability company or other entity created by filing a document with the Secretary of State or similar state agency, and a beneficial owner includes individuals who, directly or indirectly, exercise substantial control over the reporting company or own or control at least 25% of the ownership interests of such company.

There have been a significant number of articles published regarding the Act, countless webinars on the subject, and hopes that implementation of the Act will be delayed until further guidance is made available to the public. Without any rumblings of a potential postponement in the implementation of the Act, and with FAQs published and updated regularly by FinCEN implying that the Act and the FinCEN database are anticipated to proceed on schedule, all companies should be ready to focus on compliance with the Act when it becomes effective on January 1, 2024.

With filing deadlines approaching soon, it is important to remember that reporting companies formed prior to January 1, 2024, have until January 1, 2025, to provide the necessary company and beneficial owner information to FinCEN, which remains unchanged. One deadline has changed, however, as the deadline for a reporting company formed on or after January 1, 2024, to complete its FinCEN filing has been increased from 30 days after the date of formation to 90 days after the date of formation.

Even with this extension, there are still many unknowns with the Act, including how Congress will monitor the approximate 32 million FinCEN filings that are anticipated to occur in 2024 and the five million anticipated annual filings in each year thereafter, what the Beneficial Owner Information form will look like, and the extent to which Congress will enforce any

penalties for non-compliance. And, even more importantly, will the Act achieve one of its primary goals of forcing individuals hiding anonymously behind these entities to provide their names and information to FinCEN, or will these individuals continue to avoid disclosure of such information or find new loopholes to avoid compliance? Only time will tell and we will continue to provide updates as they are made available to the public.

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