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Client & Friends Alert¹

Corporate Transparency Act (CTA): A Synopsis

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Briefly, for those of you not yet familiar with it, recent legislation effective January 1, 2024, the Corporate Transparency Act (CTA), has expanded U.S. governmental money laundering enforcement through new reporting requirements that will affect an estimated 33 million small businesses.²

Money laundering laws are enforced by the Financial Crimes Enforcement Network (FinCEN) (<https://www.fincen.gov/>). FinCEN's newly published CTA Rules (<https://www.fincen.gov/boi>) require all small business entities (so-called "reporting companies") to disclose their "beneficial owners". A company "applicant", an individual or entity who makes the filing on behalf of the Reporting Company (*e.g.*, one of its officers or attorneys) is also required to disclose its beneficial ownership.

For established companies, the reports must be filed by January 1, 2025, giving them approximately one year to comply with these complex disclosure requirements. Newly established companies formed in 2024 must make a disclosure within 90 days of official notice of their formation; as of 2025, newly formed companies must make such disclosure within 30 days of such official notice. The reported information is to be stored in a beneficial owner information (BOI) database.

¹While accurate to the best of our knowledge, the discussion herein is for tutorial purposes only. It is not to be deemed a legal opinion or legal advice. Should you wish to discuss this disclaimer (or require legal assistance), please contact us at wsapronov@wstelecomlaw.com

²²<https://www.fincen.gov/what-money-laundering#:~:text=Money%20laundering%20involves%20disguising%20financial,with%20an%20apparently%20egal%20source>

Importantly, failure to comply with the CTA can trigger significant civil penalties (up to \$10,000) and up to two years of imprisonment. Unauthorized use or disclosure of BOI can trigger up to \$250,000 in fines and up to five years' imprisonment.

Companies faced with possible reporting requirements under the CTA must address several issues, among which are the following:

- i) Is the company a “reporting company”. These are generally defined as a domestic or foreign corporate entity that is either created by or registered to do business, respectively, by filing a document with a secretary of state or similar office in the U.S.
- ii) If so, does the company fall into one of 23 enumerated exemptions that include, e.g., public utilities, securities issuers, tax exempt entities, and subsidiaries of certain exempt entities?
- iii) If not, who are the “beneficial owners” of the company? These are generally defined as individuals who directly or indirectly exercise “substantial control” over the reporting company or who own or control at least 25% of its ownership interest. Among such beneficial owners are the company’s senior officers, important decision makers, and others exercising any other form of “substantial control”, an amorphous concept requiring careful review of the CTA rules and their related FinCEN explanations.

Please let us take this opportunity to wish you a Safe and Prosperous New Year. Meanwhile, for assistance with CTA compliance, please contact us at wsapronov@wstelecomlaw.com or by text at (770) 309-0462.