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Corporate Transparency Act Deadlines Loom: Are You Ready?

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As we've noted in earlier bulletins, in an effort to gain visibility into ownership and control of business entities operating in the United States, the federal Corporate Transparency Act ("Act") went into effect January 1, 2024. More specifically, the Act seeks to ferret out the potential for shell company owners engaging in money laundering, evading sanctions, financing terrorism and narco- and human-trafficking and other illegal activities. The Act pursues these goals with an extraordinarily broad brush – requiring most newly formed and existing smaller businesses to file reports with the federal Financial Crimes Enforcement Network (FinCEN). Those reports require disclosure of personal information on significant direct and indirect owners, as well as controlling individuals such as officers and directors. Affected businesses include most types of limited liability companies, corporations, some limited partnerships, foreign entities registered in the U.S., and more. Domestic "reporting companies" formed (and foreign reporting companies which first register to do business in a state) in 2024 or later will have to file such disclosures within ninety days of formation or registration, and critical companies formed or registered before January 1, 2024 will have until January 1, 2025 to make such filings.

The determination of whether a company must file reports with FinCEN, and as to which individuals' personal information must be submitted, can be very complicated, and if done improperly can subject the company and certain of its officers, directors, owners and, in some cases, its attorneys, to possible *civil and criminal penalties*. Further complicating compliance requirements is the duty to update existing filings within thirty (30) days of any changes to information reported earlier, such as percentage ownership, or changes in senior officers or directors. And at present, few companies' governing documents provide clear paths to obtain information, or compel compliance, from reluctant individuals whose information must be reported to FinCEN.

Make no mistake: while in some cases, compliance will be straightforward, in many cases compliance with the Act will be a significant lift for the affected organizations, their direct and indirect owners, officers and directors, and the law firms that assist them. With the compliance deadline for all pre-2024 entities fast approaching on December 31, 2024, (and given what is expected to be a filing logjam towards the end of the year), it is prudent to seek legal counsel as soon as possible to understand how the CTA may apply to any entities – especially those formed prior to January 1, 2024 – and the compliance documentation that will be required.

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