

Publications

“Corporate Transparency” is Coming!

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CLIENT ALERT | 9.18.2023

The new Corporate Transparency Act (CTA) will require millions of companies to report to the federal government the identity and personal information of individuals who directly or indirectly exercise substantial control over the company or directly or indirectly own or control 25% or more of the company. The reporting requirements under the CTA are unprecedented and intrusive, and compliance may be burdensome and costly, especially for smaller businesses. During our Thursday, November 2nd webinar, "[The Corporate Transparency Act is coming – Are you ready?](#)" Vorys' partner, [Russ Rosler](#), will provide additional insights about the CTA and answer questions. Register now!

What's behind the CTA?

The CTA's stated purpose is to help combat money laundering, terrorist financing, corruption, tax fraud and other illicit activity by establishing a repository of information about the human beings behind businesses. The CTA is administered by the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN).

Who has access to the information?

Access to the information reported under the CTA will be limited to law enforcement agencies, certain other governmental agencies and financial institutions for "Know Your Customer" compliance purposes.

Is an exemption available for my company?

The CTA exempts several types of entities--generally companies that are already subject to rigorous state or federal reporting or oversight. There also is an exemption for so-called "large operating companies"--those having at least 20 employees, \$5M in gross receipts or sales and an operating presence at a physical office in the US.

But FinCEN estimates that there will be at least *32.6 million* companies that will be required to report when the rule becomes effective, and an estimated *5 million* newly formed companies each year thereafter will be required to report.

How can I determine who are the “beneficial owners” of my company?

Each company will need to review its own circumstances under the CTA regulations to determine its beneficial owners. The regulations are broadly written and sweeping in their inclusiveness. There are many issues under the regulations that are not clear. Even individuals who do not own any economic interest in the company could be treated as a beneficial owner, and a company may have many individuals who are deemed to be its beneficial owners.

Timing of the CTA reporting requirements:

- Reporting companies in existence before January 1, 2024 will have until January 1, 2025 to file their initial reports. New reporting companies after January 1, 2024, will have 30 days to file their initial reports.
- Reporting companies will have 30 days to report changes to the information in their previously filed reports. This requirement to quickly update changes in beneficial ownership information may be the most challenging aspect of CTA compliance, especially changes in *indirect* beneficial ownership information to which the company may not have easy access.

What if my company just ignores the CTA?

Significant civil and criminal penalties, up to and including imprisonment, may be imposed for failure to comply with the CTA.

What should my company do next?

- Accountability within the company for compliance with any CTA reporting obligations should be established.
- The CTA regulations should be reviewed to determine whether an exemption applies. If there is no exemption available, then the beneficial owners should be identified and the required information and documentation should be obtained from the beneficial owners. Once FinCEN makes the form of the report available, the company will need to complete the report and submit it to FinCEN to meet the CTA timing requirements.
- The company should establish a compliance protocol to monitor changes in beneficial ownership information and exemption status and update CTA reporting as needed into the future.
- The company may consider amending its governing documents to implement compliance protocols.