The Corporate Transparency Act ("CTA") was enacted into law as part of the National Defense Act for Fiscal Year 2021. The CTA requires the disclosure of the beneficial ownership information (otherwise known as "BOI") of certain entities from people who own or control a company.

It is anticipated that 32.6 million businesses will be required to comply with this reporting requirement. The intent of the BOI reporting requirement is to help US law enforcement combat money laundering, the financing of terrorism and other illicit activity.

The CTA is not a part of the tax code. Instead, it is a part of the Bank Secrecy Act, a set of federal laws that require record-keeping and report filing on certain types of financial transactions. Under the CTA, BOI reports will not be filed with the IRS, but with the Financial Crimes Enforcement Network (FinCEN), another agency of the Department of Treasury.

Our firm is sending you this communication to provide you with some general information regarding the new reporting rules as well as initial steps you should take to address the implications of the CTA to your organization.

What entities are required to comply with the CTA's BOI reporting requirement?

Entities organized both in the U.S. and outside the U.S. may be subject to the CTA's reporting requirements. Domestic companies required to report include corporations, limited liability companies (LLCs) or any similar entity created by the filing of a document with a secretary of state or any similar office under the law of a state or Indian tribe.

Domestic entities that are not created by the filing of a document with a secretary of state or similar office are not required to report under the CTA.

Foreign companies required to report under the CTA include corporations, LLCs or any similar entity that is formed under the law of a foreign country and registered to do business in any state or tribal jurisdiction by filing a document with a secretary of state or any similar office.

Are there any exemptions from the filing requirements?

There are twenty-three categories of exemptions. Included in the exemptions list are publicly traded companies, banks and credit unions, securities brokers/dealers, public accounting firms, tax-exempt entities, and certain inactive entities, among others. Please note these are not blanket exemptions and many of these entities are already heavily regulated by the government and thus already disclose their BOI to a government authority.

In addition, certain "large operating entities" are exempt from filing. To qualify for this exemption, the company must meet <u>all</u> of the following requirements:

a) Employ more than twenty people in the U.S.
b) Have reported gross revenue (or sales) of over $5M on the prior year's tax return; and
c) Be physically present in the U.S.

Who is a beneficial owner?
Any individual who, directly or indirectly, either:

- Exercises "substantial control" over a reporting company, or
- Owns or controls at least 25 percent of the ownership interests of a reporting company

An individual has substantial control of a reporting company if they direct, determine or exercise substantial influence over important decisions of the reporting company. This includes any senior officers of the reporting company, regardless of formal title or if they have no ownership interest in the reporting company.

The detailed CTA regulations define the terms "substantial control" and "ownership interest" further.

When must companies file?

There are different filing timeframes depending on when an entity is registered/formed or if there is a change to the beneficial owner's information.

- New entities (created/registered after 12/31/23) - must file within 30 days.
    - FINCEN issued a final rule on November 29, 2023, allowing for new entities created in 2024 only to extend the 30-day time frame to 90 days.
- Existing entities (created/registered before 1/1/24) - must file by 1/1/25.
- Reporting companies that have changes to previously reported information or discover inaccuracies in previously filed reports - must file within 30 days.

What sort of information is required to be reported?

Companies must report the following information: full name of the reporting company, any trade name or doing business as (DBA) name, business address, state or Tribal jurisdiction of formation, and an IRS taxpayer identification number (TIN).

Additionally, information on the beneficial owners of the entity and for newly created entities, the company applicants of the entity is required. This information includes - name, birthdate, address, and unique identifying number and issuing jurisdiction from an acceptable identification document (e.g., a driver's license or passport) and an image of such document.

Understand your reporting requirement

Penalties for willfully not complying with the BOI reporting requirement can result in criminal and civil penalties of $500 per day and up to $10,000 with up to two years of jail time.

As the CTA is not a part of the tax code, the assessment and application of many of the requirements set forth in the regulations, including but not limited to the determination of beneficial ownership interest, necessitate the need for legal guidance and direction. As such, since we are not attorneys, our firm is not able to provide you with any legal determination as to whether an exemption applies to the nature of your entity or whether legal relationships constitute beneficial ownership.

We strongly encourage you to reach out as soon as possible to legal counsel with expertise in this area to assist your organization with the steps you need to take to ensure compliance with the CTA, if applicable.

For additional information regarding the beneficial ownership reporting requirements under the CTA, refer to FinCEN's Frequently Asked Questions document at https://www.fincen.gov/boi-faqs.

As always, please feel free to contact us if you have any questions.

Sincerely,

Hedman Partners LLP

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