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## Corporate Transparency Act—Here It Comes

By Justin B. Cantwell and Sean M. Finerty  
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Among the new laws taking effect in 2024, the Corporate Transparency Act (“CTA”) imposes new and extensive annual reporting requirements for most registered small businesses across the United States. Specifically, those registered small businesses – including corporations and LLC’s with less than 20 full-time employees or less than \$5,000,000 in annual gross receipts or sales - are required to report personal information for owners that either exercise substantial control over the business entity, or who own 25% or more of the entity. Failure to comply with the CTA’s reporting requirements could result in stringent penalties, including fines and even criminal charges.<sup>1</sup>

### What is the CTA Designed to Do?

The CTA authorizes the Financial Crimes Enforcement Network (“FinCEN”) to collect the beneficial ownership information (“BOI”) of all registered small businesses, and to disclose that information to authorized financial institutions and government authorities.<sup>2</sup> This information is purportedly gathered to help law enforcement, national security agencies, and others in “detecting, preventing[,] and punishing terrorism, money laundering, and other misconduct through business entities.”<sup>3</sup>

### What Information is Collected?

Each reporting business will be required to report certain information for each “beneficial owner” and each “company applicant,” including each individual’s: (1) full legal name; (2) date

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<sup>1</sup> Robert Wilson Downes, Scott E. Ludwig, Thomas Rutledge, and Lorraine A. Smiley, *The Corporate Transparency Act—Preparing for the Federal Database of Beneficial Ownership Information*, [https://www.americanbar.org/groups/business\\_law/resources/business-law-today/2021-may/the-corporate-transparency-act/](https://www.americanbar.org/groups/business_law/resources/business-law-today/2021-may/the-corporate-transparency-act/), 3 (Apr. 2021).

<sup>2</sup> *Beneficial Ownership Information Reporting*, Financial Crimes Enforcement Network, <https://www.fincen.gov/boi>, 2 (Jul. 2023).

<sup>3</sup> *Id.*; Downes, Ludwig, Rutledge, and Smiley, *supra* note 1, at 1.

of birth; (3) residential address; (4) business address; and (4) a government issued photo identification (driver's license or passport).<sup>4</sup>

A "beneficial owner" is defined as "an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (1) exercises substantial control over the entity or (2) owns or controls not less than 25 percent of the ownership interest of the entity."<sup>5</sup> Moreover, the CTA requires that the beneficial owner must be a human being, which means that subsidiary reporting companies must identify the BOI of each human being that owns the parent company.<sup>6</sup> Though the BOI requirements could be cause for concern in regard to each individual's privacy and confidentiality, no financial information or details regarding the company's business purpose or operation is required.<sup>7</sup>

A "company applicant," on the other hand, is any individual who (1) files an application to form an entity under State law or (2) registers a foreign entity to do business in the United States.<sup>8</sup> In many cases, the company applicant may be an attorney, certified public accountant, or other individual who has filed formation documents, e.g., Articles of Incorporation, etc., for an entity with the applicable secretary of state.

### **When is the Deadline for Reporting?**

Business entities (including corporations and LLC's) created or registered *before* January 1, 2024, are required to file electronically on FinCEN's website by January 1, 2025.

However, business entities created or registered *after* January 1, 2024, must file within ninety (90) calendar days<sup>9</sup> after confirmation of the entity's creation or registration.<sup>10</sup> While the reporting process is still new, we expect significant administrative effort to bring all new and existing businesses into compliance. We also expect that the CTA requirements will influence how entities are formed in the future, including strategies for ownership structures to avoid unnecessary and superfluous reporting.

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<sup>4</sup> 31 U.S. Code § 5336(b)(2)(A).

<sup>5</sup> 31 U.S. Code § 5336(a)(3).

<sup>6</sup> Jennifer M. Graff, *The Corporate Transparency Act: Tidbits for Tax Practitioners*, [https://www.americanbar.org/groups/taxation/publications/abataxtimes\\_home/23win/23win-prp-graff-cta/](https://www.americanbar.org/groups/taxation/publications/abataxtimes_home/23win/23win-prp-graff-cta/), 4 (Mar. 2023).

<sup>7</sup> *Id.* at 5.

<sup>8</sup> 31 U.S. Code § 5336(a)(2).

<sup>9</sup> FinCEN extended the deadline from thirty days to ninety days in the final rule. See *FinCEN Extends Deadline for Companies Created or Registered in 2024 to File Beneficial Ownership Information Reports*, Financial Crimes Enforcement Network, <https://www.fincen.gov/news/news-releases/fincen-extends-deadline-companies-created-or-registered-2024-file-beneficial>, (Nov. 2023); 5 U.S. Code § 553(d)(1).

<sup>10</sup> 31 U.S. Code § 5336(b)(1).

## **What Are the Penalties for Failing to Report?**

Failure to comply with the CTA could result in steep penalties. Penalties include civil penalties of up to \$500 for each day, and criminal penalties of imprisonment for up to two years and/or a \$10,000 fine, for any violation that is not corrected within ninety days.<sup>11</sup>

In conclusion, the CTA presents a significant responsibility on small registered businesses to collect and report their BOI. Without help from a professional, business owners could inadvertently fail to comply with these requirements and face the risk of severe civil and criminal penalties. Thus, the CTA's reporting requirements should not be avoided, but instead reporting should be made with precision and clarity.

If you have any questions or need assistance complying with the CTA, please contact The Alvarez Firm. Our attorneys can be reached at (818) 224-7077 or by email at [info@alvarezfirm.com](mailto:info@alvarezfirm.com)

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<sup>11</sup> 31 U.S. Code § 5336(h)(3)(A) and (C).