Sep 23, 2024 | Florham Park, NJ · New York, NY · New Brunswick, NJ

The Corporate Transparency Act - The Year-End Deadline Approaches

Alert

Print-friendly version.

As discussed in our previous client alert, The Corporate Transparency Act and related regulations of the Financial Crimes Enforcement Network ("FinCEN") of the U.S. Department of the Treasury (collectively, the "CTA") became effective on January 1, 2024. The CTA requires entities (unless exempt) to file reports with the federal government disclosing personal information as to the individuals who are its "beneficial owners" or who have "substantial control" over it.

When are CTA Reports Due?

For entities first formed or registered to do business in the United States in calendar year 2023 or earlier, the initial filing date of a CTA report is due by year's end. Entities first formed or registered in 2024 must file within 90 days of formation or registration. While some time remains before the year end deadline, an analysis and preparations for CTA compliance may take some lead time and companies should begin soon.

How Much Lead Time is Needed?

Determining whether an entity is subject to or exempt from the CTA, and which individuals are considered its "beneficial owners" by virtue of their (direct or indirect) ownership or "substantial control," are often time-intensive processes involving complex legal issues - especially if there are multiple affiliated entities involved. For more information as to these issues, please see our previous client alert.

Moreover, once the beneficial owners are identified, it may take time to gather information from them as needed to complete the CTA report filing, and companies are at risk if a beneficial owner ignore its requests for information. FinCEN is not sympathetic to companies as to these risks, and places the burden on them to find a way to get the information from their beneficial owner.

Finally, it is quite possible that FinCEN will be inundated with CTA report filings in late December, leding to online system errors or crashes and complicating filing efforts. It would be best to file well before then.

What if My Company Does Fail to File a CTA Report by the Deadline?

The CTA should not be taken lightly, as violations can result in significant civil and criminal sanctions, including penalties per entity of up to $500 for each day that the violation continues and up to 2 years imprisonment.

Are there Vendors that Specialize in Providing Assistance with the Preparation and Filing of Reports under the CTA?

Yes, there are a number of online filing service vendors that specialize in assisting companies with the preparation and filing of CTA reports. We anticipate that it would be more cost effective and efficient for you to use such filing service vendors for these CTA services, and that law firms are best suited to provide CTA legal advisory support. We can, upon request, provide you with the names of some of these filing service vendors.

Note that, while these filing service vendors can assist you with the mechanics of preparing and filing CTA reports, they do not provide substantive legal advice.

What if I have Legal Questions?

Our firm has closely followed the CTA since the regulations were enacted and will continue to monitor it for any updates. Thus, while generally we will not be filing CTA reports on behalf of our clients, we will be available to consult with our clients and answer any questions they may have about the legal requirements related to potential obligations under the CTA and the completion of CTA reports.

If you would like assistance from our law firm, including how the CTA may affect you, please do not hesitate to contact your Windels Marx relationship lawyer or one of the following members of our Corporate and Securities Practice Group: **Charles Damato**, **Christopher Dean**, **Benjamin Fink**, **Jonathan Gray**, **Gregory Krauss**, **Jonathan Kret**, **Michael Moriarty**, **Robert Rossi** or **Robert Schwartz**.

Disclaimer

Possession of this material does not constitute an attorney/client relationship. This information is provided for your convenience and does not constitute legal advice. It is prepared for the general information of our clients and other interested persons and it may include links to websites other than the Windels Marx website. This information should not be acted upon in any particular situation without first consulting with an attorney and obtaining legal advice based on your facts and circumstances.