Litigation Alert: Federal Corporate Transparency Act Imposes New Reporting Requirements on Many Businesses to Combat Money Laundering and Terrorism

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On January 1, 2021, Congress passed the National Defense Authorization Act, which included the Corporate Transparency Act (the CTA). The CTA now requires many businesses to file a report with the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Treasury Department, identifying certain biographical information about its owners. The purpose of the CTA is to assist national security, intelligence, and law enforcement efforts to counter money laundering, the financing of terrorism, and other illicit activity.

Under the CTA, any corporation, limited liability company or similar entity organized in any state, and foreign companies registered to do business in the United States (unless exempted), is required to file reports with FinCEN identifying all "beneficial owners." Certain companies are exempted from the reporting requirements of the CTA, including: (1) heavily regulated entities, such as banks, credit unions, broker-dealers, investment advisors, and insurance companies; (2) publicly traded companies; (3) tax-exempt entities; and (4) companies that employ more than 20 people, filed a tax return reporting gross receipts in excess of $5 million, and have a physical presence in the United States.

The CTA requires companies that are not exempt to file a report with FinCEN identifying the name, date of birth, current address, and a unique identification number (such as from a passport or driver's license) of the company's "beneficial owners." Under the CTA, beneficial owners are individuals who exercise substantial control over the entity or own/control at least 25% of the entity. The reported information is non-public and will only be used for law enforcement and national security purposes when requested by a law enforcement agency or other regulator.

The reporting requirements go in effect after the U.S. Treasury Department issues regulations, which must be complete by January 1, 2022. Entities formed after the regulations are effective must file the required information at the time of formation or registration, and entities formed before the date the regulations are effective must report this information within two years after the effective date of the regulations. Companies must also report any changes in beneficial ownership information within one year of the change. The CTA also authorizes civil and criminal penalties for intentionally providing false or fraudulent information, or intentionally failing to report the required information.

Although the intent of the CTA is geared toward combating money laundering and the financing of terrorism, the CTA imposes new requirements that many companies must comply with or face prosecution. Additionally, the U.S. Treasury Department will be issuing regulations, which will impose additional requirements on companies. As a result, all businesses should seek legal advice to ensure they are properly and fully complying with the CTA and its forthcoming regulations.

If you have any questions about this Alert, including what the CTA requirements mean for your business, please contact:

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