

Last Call: The Corporate Transparency Act Filing Deadline is Looming

October 29, 2024

With less than three months to go until the Corporate Transparency Act's (CTA) January 1, 2025 filing deadline, business entities formed or registered to do business in the United States before January 1, 2024 must assess (if they have not already done so) whether either the entity or its affiliates are subject to, or exempt from, the CTA's onerous reporting requirements.

As we explained in previous client alerts (which can be found [here](#), [here](#), and [here](#)), the CTA is an anti-money laundering law intended to combat the use of shell corporations in financial crimes. It requires certain domestic and foreign entities to disclose personal stakeholder information (and regularly update that information when it changes) through Beneficial Ownership Information Reports (BOIRs) filed directly with the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN).

To summarize, the CTA covers (1) domestic corporations, limited liability companies, or other entities created by the filing of a document with a secretary of state or similar office; and (2) similar entities formed under foreign laws and registered to do business in any U.S. state by the filing of a document with a secretary of state or similar office.

However, the CTA exempts 23 types of entities, many of which include large, regulated, and/or public companies already subject to significant regulatory oversight. One of those exemptions is the large operating company exemption, which excludes any entity that (1) employs more than 20 full-time employees in the U.S.; (2) maintains an operating presence at a physical location in the U.S.; and (3) has filed a federal tax return for the previous year showing more than \$5

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million in gross receipts or sales, excluding amounts from non-U.S. sources.[1] There is also an attributed exemption for entities that are wholly owned or controlled by an exempt entity.[2]

That said, exempt entities should not presume that they are beyond the CTA's reach. Indeed, many of the CTA's exemptions are quite specific and highly nuanced. For example, while an exemption may apply to a large parent company, it may not apply to its partially owned subsidiaries, joint venture arrangements, or other partnerships. Likewise, even if an exemption currently applies to a large parent company and its affiliated entities, it may not apply in the future.

As a best practice, entities that are currently exempt should be well-versed in the CTA's requirements and should establish compliance procedures to document all good faith efforts to comply with the CTA. If an entity is required to file by the January 1, 2025 deadline, it should retain all BOIR transcripts and submissions. Moreover, if an entity is exempt, it should document its exemption analysis and the procedures it will establish to monitor future activities which could nullify the exemption, thereby triggering the BOIR requirement.

At bottom, companies of all sizes and industries must act now. Despite the brevity of FinCEN's BOIR form, identifying all relevant personal stakeholders and collecting the required information—or alternatively, confirming that a CTA exemption applies—can take several weeks or even months. Additionally, the process of establishing adequate procedures to ensure compliance with the CTA (and more importantly, avoid civil and criminal penalties for noncompliance) can take even longer.

Wiley's White Collar Defense & Government Investigations and Corporate practices have unparalleled capabilities and experience in helping clients navigate increasingly complex regulatory landscapes, including corporate governance and transactional matters, and compliance with federal and state requirements. For more information about the CTA and the impending filing deadline, please contact one of the authors listed on this alert.

[1] 31 U.S.C. § 5336(a)(11)(B)(xxi); 31 CFR § 1010.380(c)(2)(xxi).

[2] 31 U.S.C. § 5336(a)(11)(B)(xxii); 31 CFR § 1010.380(c)(2)(xxii).