

**MEMORANDUM**

TO: Clients of Hahn & Hahn LLP

FROM: Dale Pelch, Esq.; Nina Golshan, Esq.

DATE: October 24, 2023

RE: The Corporate Transparency Act Client Alert

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This memorandum summarizes the reporting requirements under the Corporate Transparency Act (CTA) and provides clients with key information related to the CTA that might be relevant to them. This is intended to be a resource for clients to reference which will be available on our website.

**The Corporate Transparency Act:  
Guidelines for Compliance With New Reporting Requirements**

The Corporate Transparency Act (CTA) is a new act which requires that certain entities report specific information to the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN). This summary provides some guidance with respect to whether this new act might apply to you, and if so, how you can comply.

**1. What is the Corporate Transparency Act?**

The CTA was enacted as part of the Anti-Money Laundering Act of 2020 and requires that certain existing, amended or new entities, whether foreign or domestic, report specific information about themselves and the individuals who form, own and control them. The CTA is meant to identify the beneficial owners of smaller, unregulated companies and detect bad actors. While the CTA authorizes FinCEN to share the information with other governmental enforcement agencies and certain financial institutions using customer information to conduct due diligence, the information provided will not be available to members of the public.

**2. To what entities does the CTA apply?**

The CTA applies to all entities that are created or registered to do business in the United States through filings with the secretary of state or equivalent offices in the state of organization. This includes corporations, limited liability companies, partnerships, and business trusts, to the extent these entities filed formation documents with the secretary of state or similar office. Entities that are exempt from reporting under the CTA include, among others, those that employ

more than 20 full-time employees in the United States, operate a physical office in the country, and have accrued more than \$5 million in gross receipts and sales based on their previous-year filed federal tax returns, state-regulated insurance companies and insurance producers, banks, banking and savings and loan holding companies, public accounting firms, registered investment companies and advisors, tax-exempt entities, entities assisting tax-exempt entities and subsidiaries of certain exempt entities.

### **3. What information is required to be reported?**

If it is determined that the CTA applies to an entity, that entity is required to report under the CTA. The report must include the following:

#### Reporting Entity:

- a) Full legal name and fictitious business (DBA) name
- b) Street address of Entity's principal place of business
- c) Jurisdiction of formation
- d) Taxpayer Identification Number or other unique tax ID number

#### Beneficial Owner(s):

- a) Full legal name
- b) Date of birth
- c) Current residential street address
- d) Unexpired photo ID with unique identification number (such as a state issued driver's license or passport)

#### Entity Applicant(s):

- a) Full legal name
- b) Date of birth
- c) Current residential or business street address
- d) Photo ID with unique identification number (such as a state-issued driver's license or passport)

### **4. Who is a beneficial owner?**

The CTA defines a "beneficial owner" as anyone who (1) exercises substantial control over the reporting entity, (2) owns or controls at least 25% of the ownership interests of the reporting entity or (3) receives substantial economic benefits from the assets of the company. An individual has "substantial control" if he or she serves as a senior officer, has authority over the appointment or removal of any officers or can make important decisions for the entity. There are certain exceptions, including those who have a future inheritance right in the reporting entity, minors, persons acting as nominees, intermediaries or custodians of another and employees or creditors of the reporting entity.

## **5. Who is the applicant?**

This is the individual who directly files the document that creates, or first registers, the reporting entity; and, if different, the individual who is primarily responsible for directing or controlling the filing of the relevant document. There can only be up to two individuals who qualify as an entity's applicant. For entities formed on or after January 1, 2024, the identity of the applicant must be submitted when the report for the entity is filed and the same information applicable to beneficial owners must be provided for the applicant. The applicant does not need to report the same information for the applicant that is required for beneficial owners for entities formed before January 1, 2024. The role of an applicant is not restricted to any type of individual. For example, the applicant might be, the organizer of the entity, an authorized agent for the entity or the entity's accountant or attorney.

## **6. How is the information reported?**

FinCEN has indicated that required information be submitted on its website, through a secure filing system. The secure filing system is not yet operating but is expected to be available on January 1, 2024. Currently, there is no fee associated for filing.

## **7. When must the required information be reported?**

The CTA is slated to take effect on January 1, 2024. All entities formed on or after January 1, 2024 to which the CTA applies are required to report within 30 days of formation. All existing entities to which the CTA applies are required to comply with the reporting requirements no later than January 1, 2025. Changes to any information previously reported (e.g., changes in the beneficial owners or their personal information, changes in the entity's information, address, etc.) must be submitted within 30 days of such change.

## **8. What happens if there is a failure to comply with the CTA?**

Intentional noncompliance with the CTA's reporting requirements may result in civil fines of \$500 for each day of intentional noncompliance, or criminal penalties including imprisonment for up to two years or a fine of up to \$10,000.

The foregoing summary is for informational purposes only and is not intended to be an exhaustive outline of all requirements under the CTA or to address its impact on specific entities or circumstances. More information about the CTA can be found on the FinCEN website: <https://www.fincen.gov/boi>. If you have any additional questions regarding your circumstances or a specific matter, please feel free to reach out to us at Hahn & Hahn LLP or **Nina Golshan, Esq.** at [ngolshan@hahnlawyers.com](mailto:ngolshan@hahnlawyers.com).