

NIESAR & VESTAL LLP

Law Alert

October 28, 2024

Corporate Transparency Act Compliance Reminder and Recent Developments

The beneficial ownership interest reporting requirements of the Corporate Transparency Act (“CTA”) came into effect on January 1, 2024. The CTA requires most smaller business entities to report their beneficial ownership information (“BOI”) to FinCEN (the “BOI Report”). We have previously published a number of client alerts on CTA issues.

The [law alert](#) we published on February 23, 2024 summarizes the CTA main requirements and contains filing instructions.

As the deadline for entities that were organized prior to 2024 quickly approaches (January 1, 2025), this law alert discusses: (1) the CTA filing deadlines, which are quickly approaching for all entities that need to file; (2) an update on the litigation challenging the CTA; (3) a reminder of the potential penalties under the CTA; and (4) a short alert warning our clients and friends of scam attempts which aim to solicit information and filing fees for complying with the CTA.

Reminder of Filing Deadlines

Reporting Companies (as such term is defined in the CTA and explained in our previous law alerts) formed or registered to do business under the law of a U.S. State or Indian tribe prior to January 1, 2024, are required to submit initial BOI Reports to FinCEN no later than January 1, 2025. Reporting Companies formed or registered to do business under the law of a U.S. State or Indian tribe on or after January 1, 2024, and before January 1, 2025, are required to submit initial BOI Reports to FinCEN within 90 days of formation or registration. Reporting Companies formed or registered to do business under the law of a U.S. State or Indian tribe on or after January 1, 2025, are required to submit initial BOI Reports to FinCEN within 30 days of formation or registration.

Recent Developments

Various industry groups have filed lawsuits in multiple federal districts challenging the constitutionality of the CTA. The first such suit, filed in the Northern District of Alabama, resulted in a ruling by the District Court that the [CTA was unconstitutional](#) because Congress

lacked the authority to enact the CTA. Such ruling was promptly appealed. FinCEN has clarified that while it will not enforce the Corporate Transparency Act against the plaintiffs in that action until such litigation is resolved: Isaac Winkles, reporting companies for which Isaac Winkles is the beneficial owner or applicant, the National Small Business Association, and members of the National Small Business Association (as of March 1, 2024), it will continue to enforce the CTA against all other relevant companies.

On October 24, 2024, the U.S. District Court for the Eastern District of Virginia in the *Community Associations Institute, et al v. Janet Yellen* case has denied plaintiffs' motion for preliminary injunction. The opinion goes to the heart of the constitutional arguments, ruling that the plaintiffs are unlikely to succeed on the merits. As a result, Community Associations will need to file their BOI Reports before the deadline on January 1, 2025.

Therefore, until all CTA litigation is finally adjudicated, the CTA remains in effect for essentially all Reporting Companies, and they should continue to timely file their BOI Reports.

Penalties

The consequences of non-compliance with the BOI reporting requirements are severe. As of January 25, 2024, the penalties have been adjusted for inflation. The current penalties include:

- Civil Penalties: A fine of up to \$591 per day for each day the violation continues.
- Criminal Penalties: For willful violations, including failure to file, providing false information, or failing to update previously reported information, penalties can include:
 - Up to two years of imprisonment;
 - A fine of up to \$10,000.

Scam Alert

Both FinCEN and the Better Business Bureau have issued alerts warning the public of scam attempts which aim to solicit information and filing fees for complying with the CTA. ***Note that no filing fee is required for submitting a BOI Report and FinCEN will never reach out requesting information for your CTA filing.***

Fraudsters posing as government agencies will often use official sounding language and include details about the business and owners. Provided forms may also seem official, looking similar to government forms. Do not click on or scan suspicious links and QR codes.

If you have any questions or need assistance while preparing and/or filing your BOI Report, please feel free to contact Carolina Aricu (caricu@nvlawllp.com), Gerald Niesar (gniesar@nvlawllp.com) or Oscar Escobar (oescoabar@nvlawllp.com).

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