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U.S. DEPARTMENT OF TREASURY ANNOUNCES SUBSTANTIAL CHANGES TO CTA ENFORCEMENT WITH UNCLEAR EFFECTS

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On Mar. 2, 2025, the U.S. Department of Treasury ("Treasury"), the parent agency of the Financial Crimes Enforcement Network ("FinCEN"), announced that it will not impose penalties or fines for noncompliance with the Corporate Transparency Act ("CTA") against U.S. citizens or domestic reporting companies. This follows FinCEN's Feb. 27, 2025, statement temporarily suspending CTA enforcement—including fines or penalties—pending the issuance of a new interim rule.

The forthcoming rule, expected no later than Mar. 21, 2025, is anticipated to extend filing deadlines and may revise reporting requirements. Treasury's announcement confirms that CTA enforcement will resume under the new rule, but explicitly excludes enforcement against U.S. citizens and domestic reporting companies.

Under the current CTA framework, a "domestic reporting company" is defined as any entity that is a "corporation, limited liability company, or created by the filing of a document with a secretary of state or any similar office under the law of a State or Indian tribe." The exclusion of domestic reporting companies from CTA enforcement is significant, as they comprise the majority of entities subject to the CTA's filing obligations.

Treasury's announcement suggests that foreign reporting companies and non-U.S. citizens will remain subject to CTA enforcement under the forthcoming rule. However, FinCEN has indicated that it will solicit public comments as part of the rulemaking process, leaving open the possibility of additional modifications to reporting requirements.

It should be noted that the CTA and its implementing regulations remain in effect, despite Treasury's statements that it will not take action against noncompliant parties. As the CTA is an act of Congress, the decision to suspend enforcement against U.S. citizens and domestic reporting companies could face legal challenges. Opponents to Treasury's announcement may argue that Treasury lacks the authority to unilaterally suspend enforcement against U.S. citizens and domestic reporting companies.

Treasury or FinCEN may also need to clarify the scope of the potential exclusion. For example, it remains unclear whether U.S. citizens who are beneficial owners of foreign reporting companies will be subject to reporting obligations under the new rule.

Entities with CTA reporting obligations—particularly foreign reporting companies and non-U.S. citizens—should continue to monitor developments closely and assess their compliance strategies in light of potential rule changes and potential challenges to the Treasury announcement.

FOR MORE INFORMATION

If you have questions or want more information regarding the Corporate Transparency Act, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific needs. For more information, contact Bill Matthews at 316.291.9556 or bmatthews@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

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