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New Obligations Under Sweeping Corporate Transparency Laws, by Andrew Richards, Esq., published by STA, Legal Log,1-16-2024

Not all companies are transparent about the makeup of their ownership structure, but a recently enacted federal law and a pending New York State law targeting money laundering and other illegal financial activities will dramatically change that.

On the federal level, the Corporate Transparency Act, already in effect since Jan. 1, will have wide ramifications for an estimated more than 30 million privately held companies including certain corporations, limited liability companies and limited partnerships.

Under the Act, businesses that meet certain criteria must submit a Beneficial Ownership Information Report to the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN), reporting detailed information about the individuals who ultimately own or control them. Beneficial owners include anyone who, directly or indirectly, exercises "substantial control" over a reporting company or owns or controls at least 25% of its ownership interests.

Separately, the New York LLC Transparency Act was just signed into law on December 22, 2023, and will go into effect January 1, 2025. In addition to reporting requirements, legislation S.995B/A.3484 creates a database of the beneficial owners of Limited Liability Corporations that can be accessed by Federal, State and local government law enforcement across New York State.

While NYS's legislation is similar to the CTA in many ways, there are some distinct differences that businesses should be aware of including the New York legislation only applies to LLCs and additionally with New York, certain basic identifying information will be made publicly available with limited exceptions.

Navigating both the federal and state corporate transparency laws represents a new regulatory compliance burden added onto the many existing obligations businesses are already facing.
With steep ramifications for non-compliance including civil or criminal penalties (on the federal level), applicable entities should be aware of:

• the reporting deadlines (these vary on the federal and state level based on
different factors);
• determine whether they would qualify as a reporting company; and,
• begin identifying individuals who would be deemed "beneficial owners."

Bottomline is these laws lift the veil over previously undisclosed information and will potentially open up many more companies to liability for non-compliance even if their intent is not to violate the law