Effective January 1, 2024, the Corporate Transparency Act (Act) became a federal law affecting all corporations, limited liability companies, limited partnerships and other entities registered with the Secretary of State of the state of formation. All reporting entities must register their beneficial ownership with the Financial Crimes Enforcement Network (FinCEN) database before the end of this year. FinCEN is a bureau of the United States Department of the Treasury that collects and analyzes information about financial transactions in order to combat domestic and international money laundering, terrorist financing, and other financial crimes.

While challenges to the constitutionality of the Act are ongoing, the Act remains in full force and effect. The Electronics Representatives Association encourages its members to remain in compliance with the Act and proceed with registering their beneficial ownership with FinCEN. Members are reminded that failure to comply with the new FinCEN registration requirements may subject any person who willfully violates the reporting requirements to civil penalties of up to $500 for each day that the violation continues and also may be subject to criminal penalties of up to two years imprisonment and a fine of up to $10,000.

Of interest, the Act allows for 23 categories for exemption from having to report the beneficial ownership information to FinCEN. The list of exemption categories appears below.

Large Operating Entity Exemption. If your company is classified as a large operating entity or if your company is no longer active, your company is exempt from the reporting. Entities that meet all 6 of the following criteria are exempt from the beneficial ownership information reporting to FinCEN under the large operating entity exemption:

1. The entity employs more than 20 full-time employees; AND
2. The entity has more than 20 full-time employees who are employed in the United States; AND
3. The entity has an operating presence in the United States; AND
4. The entity filed a Federal income tax or information return last year reporting more than $5 Million in gross receipts or sales; AND
5. The reporting of the more than $5 Million in gross receipts or sales was on the entity's IRS Form 1120, consolidated IRS Form 1120, IRS Form 1065, or other applicable IRS Form: AND
6. Gross receipts of sales from sources outside of the United States are excluded from the entity's gross receipts or sales, the amount of gross receipts or sales remains more than $5 Million.

Inactive Entity Exemption. If your company is no longer actively engaged in business, and your company meets all 6 of the following criteria, your company is exempt from the beneficial ownership information reporting to FinCEN under the inactive entity exemption:

1. The entity was in existence on or before January 1, 2020; AND
2. The entity is not engaged in active business; AND
3. The entity is not owned in whole or in part by a foreign person; AND
4. The entity has not experienced any change in ownership in the preceding 12-month period; AND
5. The entity has not sent or received any funds, either directly or indirectly, in an amount greater than $1,000 in the preceding 12-month period; AND
6. The entity does not hold any kind or type of assets, whether in the United States or abroad, including any ownership interests in any corporation, limited liability company, or other similar entity.

23 Categories of Exemption from Beneficial Ownership Information Reporting

1. Securities reporting issuer
2. Governmental authority
3. Bank

13. State-licensed insurance producer
14. Commodity Exchange Act registered entity
15. Accounting firm

4. Credit Union
5. Depository institution holding company
6. Money services business
7. Broker or dealer in securities
8. Securities exchange or clearing agency
9. Other Exchange Act registered entity
10. Investment company or investment adviser
11. Venture capital fund adviser
12. Insurance company
16. Public utility
17. Financial Market utility
18. Pooled investment vehicle
19. Tax-exempt entity
20. Entity assisting a tax-exempt entity
21. Large operating company
22. Subsidiary of certain exempt entities
23. Inactive entity

If you have any questions, please contact ERA's counsel, Adam Glazer at Adam.Glazer@sfbbg.com