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**MARCUS | CLEGG**

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MEMORANDUM

**TO:** VALUED CLIENT  
**FROM:** TREY R. MILAM, MARCUS | CLEGG  
**SUBJECT:** CORPORATE TRANSPARENCY ACT  
**DATE:** 12.5.2023

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This memorandum is to inform you of a new federal law, known as the “Corporate Transparency Act” (the “CTA”) that requires most small businesses to report the identities of their “beneficial owners” to the federal government. The CTA was enacted to make it harder for bad actors to hide or benefit from illegal income by using shell companies or similar ownership structures. Under the CTA, and as of January 1, 2024, a “reporting company,” as defined in the CTA and as discussed below, will be required to file a Beneficial Ownership Report with the Financial Crimes Enforcement Network (“FinCEN”), which is a bureau of the United States Department of the Treasury.

Most small corporations and limited liability companies are considered “reporting companies” under the CTA and are therefore subject to the new reporting requirements. There are several exceptions, including U.S.-based companies with over 20 full-time employees and annual gross revenue of more than \$5,000,000, nonprofit entities, public companies, banking institutions, and utility companies. We are happy to answer any questions you may have about

the applicability of the reporting requirements to your company and any applicable exceptions to these requirements.

A reporting company's Beneficial Ownership Report must include personal identifying information for all beneficial owners of the entity. Subject to some exceptions, a beneficial owner of a company is an individual who either (i) exercises substantial control over an entity; or (ii) owns or controls 25% or more of the company. An individual with "substantial control" may include a senior officer of the company, someone with authority to appoint or remove officers or a majority of directors of the company, or someone with the authority to make important decisions regarding the company's business, finances, or structure.

For reporting companies that existed before January 1, 2024, an initial Beneficial Ownership Report must be filed on or before January 1, 2025. For reporting companies formed during calendar year 2024, an initial Report must be filed within 90 days of company formation. For reporting companies formed after calendar year 2024, an initial Report must be filed within 30 days of company formation. There is no annual reporting requirement. However, after filing its initial Report, a reporting company must update its beneficial ownership information by filing an updated Report within 30 days of a change in beneficial ownership. Therefore, it is very important that FinCEN is notified of any change in your company's beneficial ownership. Information required to be included in a Beneficial Ownership Report includes, for each beneficial owner:

1. Full legal name;
2. Date of birth;
3. Current residential street address;

4. A unique identifying number from a document such as a passport, driver's license, other government issued identification, or FinCEN identifier; and
5. An image of the document from which the unique identifying number was obtained.

A reporting company has several options regarding filing its initial Report and any amendments. It can prepare and file these reports on its own, using the FinCEN website: <https://www.fincen.gov/boi>. Please note that as of the date of this memorandum, the secure link used to access the secure filing system is not yet active, but FinCEN states that it will be live on January 1, 2024. Alternatively, at least one company provides an online service for filing the initial Report and any amendment; see [www.cogencyglobal.com](http://www.cogencyglobal.com). And, of course, a reporting company can consult with its legal counsel about the applicability of the reporting requirements and the preparation and filing of its report and any amendment.

The information provided to FinCEN will not be publicly available, but may be disclosed to law enforcement agencies, and with a reporting company's consent, to financial institutions and their regulators. More specifically, the CTA expressly prohibits disclosure of beneficial ownership information, unless a request for information is properly made by a federal, state, local or tribal governmental agency; foreign law enforcement agencies; financial institutions subject to federal customer due diligence requirements that has received the reporting company's consent to such a disclosure; the regulators overseeing such financial institutions; or the U.S. Treasury. Because any other disclosure of beneficial ownership information is prohibited by the CTA, it is not subject to FOIA requests filed by members of the public.

We hope this memorandum provided you with a helpful understanding of the CTA and the requirements for compliance with it. Needless to say, we at Marcus | Clegg stand ready to

answer any questions you may have, and/or assist in filing an initial or amended Report. Please do not hesitate to contact us.

We greatly appreciate your business, and we look forward to continuing our service to you.

*Marcus | Clegg*