

# REGULATORY COUNSEL UPDATE

DC Fly-in

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**Barnes/Richardson**  
*Global Trade Law*

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New York / Chicago / Washington DC

# Forced Labor and the Supply Chain

- All work/services extracted under threat of penalty for nonperformance and which the worker has not offered themselves voluntarily.
- Includes slave, prison and child labor. But also includes labor that while not falling into these categories would be considered forced labor
  - Restriction of worker's movement and retention of workers' identification cards;
  - Debt bondage
  - Abusive working and living conditions
  - Withholding wages or requiring excessive overtime
  - Physical and sexual violence and other forms of threats or intimidation.
- US Uyghur Forced Labor Prevention Act
  - Affects goods in whole or in part the byproduct of forced labor.
  - Results in detention of shipments
  - High bar for proving that no atoms of the product was the byproduct of Uyghur forced labor
- Provided members with general overview document.
  - Explains concept of forced labor.
  - Provide indicators of forced labor.
- Provided members with vendor forced labor questionnaire to use as compliance tool.

# PFAS

- Continuing to monitor federal and state PFAS laws.
  - Per- and polyfluoroalkyl substances; aka “forever chemicals.”
  - Used in a wide range of industrial and consumer products.
    - Some examples – Textiles and apparel; fire fighting foam and clothing; electronics; wire and cable; pipes; cooking and bakeware; food contact substances; dental floss.
    - **Certain lens coatings**
- EPA implementing PFAS reporting requirement.
  - Due between November 2024 and May 8, 2025. A one-time submission.
  - Report on all PFA use since 2011!
  - FDA medical devices exempt from reporting requirement.
  - Need to report information “known or reasonably attainable”
- Maine PFAS law.
  - Ban all PFAS and products containing PFAS by 2030.
  - Implement reporting requirement by 2025.
  - Request currently unavoidable use (CUU) exemption by 3/1/24.
  - Told that other period(s) to request CUUs will be announced.
  - Will include medical devices.
- Other states have pending bills that mirror Maine – CO; CT; VT; MN

# Corporate Transparency Act

- The Corporate Transparency Act (CTA) is a federal law aimed at curtailing money laundering and other illegal activities.
- Companies will be required to report beneficial ownership information starting on Jan. 1, 2024:
  - Existing reporting companies will have until January 1, 2025
  - Companies formed in 2024 have 90 days from notice of creation to file
  - After 2025, new companies will have 30 days.
- US reporting company reports information includes US reporting company's legal name, trade name or doing business name; current address; state of formation, and EIN.
- Foreign reporting companies must also list US state, territory or tribal jurisdiction where it first registers and a foreign tax ID if they don't have an EIN.

# Corporate Transparency Act

- Includes many types of businesses.
  - Includes corporations, LLC, limited partnerships, or other entities created by filing a document with a US state, territory or Indian tribe.
  - Includes Non-US entities registered to do business with any US state, territory or Indian tribe.
  - Existing reporting companies will have until January 1, 2025
- Excludes many types too, most notably
  - Publicly traded companies.
  - 501(c) tax exempt companies.
  - Companies with 20+ full time employee + US physical office + >\$5 Million in gross receipts or sales.
- Noncompliance with the CTA may result in penalties.
  - Willful failure to comply can result in fines of \$500 per day capped at \$10,000
  - Two-year prison term also possible.

# Other Issues

- California Prop 65 and the short form warning label.
  - TVC signed onto a letter written by the California Chamber of Commerce opposing the proposed change.
- March 11, 2024, new rule on who is an independent contractor went into effect. Using a multi-factor economic reality test with six factors that go into issues of ownership and control.
- Open rule-makings on medical payment products, overtime rule-making and FTC non-compete clause issue.