



Client Alerts

The Corporate Transparency Act on Hold

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December 2024 Update: CTA Enjoined

Enforcement of the federal Corporate Transparency Act (“CTA”) and compliance with its related reporting rule have been enjoined by a preliminary injunction issued by the U.S. District Court for the Eastern District of Texas.

Background—The Law and the Injunction

In January 2024, the CTA went into effect, requiring most private entities to report identifying and ownership information to the Financial Crimes Enforcement Network, a bureau of the U.S. Department of the Treasury (“FinCEN”). The CTA became law in January 2021 in an effort to deter illegal activity, such as money laundering, tax evasion, and the financing of terrorism.

The CTA and its related reporting rule require entities deemed to be “Reporting Companies” to file a Beneficial Ownership Information Report by January 1, 2025 if they were formed before 2024, within 90 days after formation if formed in 2024, and within 30 days after formation if formed in 2025 or later.

While there have been numerous legal challenges to the CTA and its reporting requirements, none of those claims previously resulted in a bar to its enforcement. That changed on December 3, 2024, when the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction halting the enforcement of the CTA and its reporting requirements. This decision introduces considerable uncertainty regarding the future of the CTA.

FinCEN has updated its website to include an alert that acknowledges the preliminary injunction and confirms that FinCEN will comply with the court’s order. FinCEN stated that, based on the preliminary injunction, “reporting companies are not currently required to file their beneficial ownership information with FinCEN and will not be subject to liability if they fail to do so while the preliminary injunction remains in effect. Nevertheless, reporting companies may continue to voluntarily submit Beneficial Ownership Information Reports.”

Implications for Businesses

Based upon the preliminary injunction, reporting companies that were required to make a BOIR filing by the end of this year (or within the 90-day or 30-day time periods for companies formed in 2024 and after, respectively) are not required to do so at this time. The preliminary injunction does not, however, reflect a final decision, and the federal government has filed a notice of appeal to challenge the lower court’s decision. Enforcement and reporting status could change very quickly depending on the next steps by the government and/or the court. If the CTA reporting rule is reinstated in the future, it appears likely that FinCEN would establish a new deadline, but the new deadline could be as short as a 30-day period in which to file.

Recommendations

- **Stay informed** and monitor any updates on the injunction, including new information posted by FinCen.
- **Consult your legal advisors** to help you understand the impact of the injunction and how future developments may impact you.

- **Consider the pros and cons of voluntary compliance.**

Whether CTA enforcement and compliance with the CTA reporting rule are reinstated remains uncertain, especially with a new administration taking office in January 2025. Reporting companies will need to remain alert for changes and be prepared to act quickly if needed.

More on the Court's Ruling

In *Texas Top Cop Shop, Inc. et al. v. Garland*, the plaintiffs, including the National Federation of Independent Business ("NFIB"), challenged the constitutionality of the CTA. They argued that the CTA imposed unprecedented federal oversight over entities traditionally regulated by state law and that it exceeded the constitutional authority of Congress.

Judge Amos Mazzant of the Eastern District of Texas ruled in favor of the plaintiffs, finding that both the CTA and its reporting rule are "likely unconstitutional as outside of Congress's power." Judge Mazzant emphasized that corporate formation and governance have historically been state-law matters and that the CTA, among other things, could not be justified under the Commerce Clause of the U.S. Constitution.

Judge Mazzant determined that the plaintiffs were likely to succeed on the merits of their claims and were likely to suffer irreparable harm in the absence of preliminary injunctive relief. Of particular note is that the injunction expressly applies nationwide, preventing any enforcement of the CTA across the entire country. Judge Mazzant concluded, especially with a national business federation as one of the plaintiffs, that "the Court cannot provide Plaintiffs with meaningful relief without, in effect, enjoining the CTA and Reporting Rule nationwide." The scope of this injunction contrasts with other challenges, which have either declined to impose relief or, as with a Northern District of Alabama case earlier this year, issued an injunction but limited its scope to those plaintiffs.

Additional Information

This Client Alert is provided for your general information. We are not undertaking any obligation to update you if the CTA reporting requirements are reinstated, modified, or terminated. We encourage you to contact your legal advisors. In that regard, if you have any questions, would like more information, or would like to discuss further, please do not hesitate to contact any of our Corporate attorneys.

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