LEGAL UPDATES UPDATED: FEBRUARY 21, 2025 PUBLISHED: DECEMBER 4, 2024

Nationwide Injunction Halts Enforcement of the Corporate Transparency Act

Service

Corporate Transparency Act (CTA)

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Key takeaway

As of the posting of this article, reporting companies nationwide once again **need to comply** with the Corporate Transparency Act's (CTA) revised beneficial owner information (BOI) reporting deadlines. FinCEN has set the deadline for most reporting companies to **March 21, 2025**.

Update

The preliminary injunctions of the CTA issued in *Texas Top Cop Shop* and *Smith v. Treasury* have both been stayed.

The Fifth Circuit is set to hear oral argument on the appeal of *Texas Top Cop Shop* on April 1, 2025, with a decision expected soon after. The decision in *Smith v. Treasury* has also been appealed to the Fifth Circuit.

The decision in *Texas Top Cop Shop* and subsequent appeals

In a significant legal development, the United States District Court for the Eastern District of Texas has issued a **nationwide** preliminary injunction against the enforcement of the CTA and its implementing regulations. The court's decision effectively halts the January 1, 2025, filing deadline for all reporting companies.

The plaintiffs, including the National Federation of Independent Business (NFIB) on behalf of a number of its members, brought their legal challenge to the CTA in *Texas Top Cop Shop, Inc., et al. v. Garland et al.*, on behalf of a number of its members, arguing that the CTA exceeded Congress's authority under the U.S. Constitution. The CTA, enacted as part of the Anti-Money

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Laundering Act of 2020, mandates businesses provide the federal government with detailed BOI to help address financial crimes enabled by anonymous corporate structures.

As part of its preliminary injunction analysis, the court found that the plaintiffs would likely succeed on the merits of its argument that the CTA exceeds Congress's powers under the Commerce Clause and the Necessary and Proper Clause. The court determined that the CTA does not regulate an existing activity but instead compels businesses to engage in a new activity—disclosing ownership information—which is beyond the scope of Congress's regulatory authority. The court stated, "[t]he fact that a company is a company does not knight Congress with some supreme power to regulate them in all aspects—especially through the CTA, which does not facially regulate commerce." The court also concluded that the harm to plaintiffs, including compliance costs and potential constitutional violations, outweighed any potential harm to the government. The court emphasized that enforcing a law likely to be unconstitutional is not in the public interest.

Although the NFIB sought a remedy for its members only (similar to the plaintiffs in *NSBU v. Yellen*), the court broadened the preliminary injunction to apply nationwide, blocking reporting under the CTA for all companies. As part of its analysis, the court also addressed the ongoing debate over whether a federal district court can issue a nationwide injunction.

On December 5, 2024, the U.S. government appealed the district court's decision. On December 11, 2024, the U.S. attorney general filed a motion to stay the preliminary injunction, requesting in particular that the national scope of the preliminary injunction be narrowed to just the named plaintiffs. On December 13, 2024, the U.S. attorney general filed an emergency motion to stay the preliminary injunction pending appeal to the Fifth Circuit Court of Appeals. On December 23, 2024, the motions panel of the Fifth Circuit granted the motion to stay the preliminary injunction, and FinCEN immediately extended the reporting deadline for most reporting companies by 12 days; however, just three days later, on December 26, 2024, the merits panel of the Fifth Circuit vacated the stay granted by the motions panel and, as a result, the preliminary injunction sprang back into effect. Next, the Fifth Circuit will hear an appeal on the merits, with oral arguments scheduled for March 25, 2025. Meanwhile, on December 31, 2024, the U.S. government filed an emergency application with the Supreme Court, asking it to stay the currently-in-place injunction so the CTA can be enforced pending appeal.

Contact us

If you have questions regarding compliance with the CTA in light of this decision, please contact Yuefan Wang, Matti Mortimore, Joseph Diedrich, or your Husch Blackwell attorney.

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