

Insights

Nationwide Injunction of the Corporate Transparency Act Remains in Effect

Article

Lowndes

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The status of the preliminary injunction which paused the nationwide enforcement of the Corporate Transparency Act and its implementing rules (collectively, the “CTA”) continues to keep all interested parties on the edge of our collective seats as year-end approaches, with an order issued at 5:00 p.m. on December 26, 2024 by the US Court of Appeals for the Fifth Circuit clarifying that the injunction **remains in effect**.

The CTA, effective as of January 1, 2024, was enacted for the purpose of curbing money laundering, terrorism financing, and other illicit activities. The law generally requires “reporting companies” (any domestic or foreign entity registered to do business in the U.S. and which does not fall into one of 23 specific exceptions) and their respective “beneficial owners” (any individual who owns at least 25% of, or exercises substantial control over, an entity) to report certain information to the Financial Crimes Enforcement Network (“FinCen”), a bureau within the United States Department of the Treasury.

While reporting deadlines vary under the CTA depending on the date of formation of the entity, the original deadline established for reporting entities formed prior to January 1, 2024 is January 1, 2025 (subject to certain extensions granted in connection with a number of hurricanes which recently impacted the Southeast).

On December 3, 2024, in connection with the case of *Texas Top Cop Shop, Inc. v. Garland*, the United States District Court for the Eastern District of Texas issued a preliminary injunction pausing the nationwide enforcement of the CTA, which injunction was promptly appealed by the U.S. Department of Justice (“DOJ”) to the US Court of Appeals for the Fifth Circuit (the “Fifth Circuit”).

Following the appeal, on December 23, 2024, a motions panel of the Fifth Circuit issued an order which stayed the nationwide injunction, effectively reinstating the CTA and permitting FinCen to once again enforce the reporting requirements thereunder. In response to the stay of the

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injunction, and as an accommodation to reporting companies and beneficial owners, FinCEN then extended the reporting deadline for certain entities – notably the January 1, 2025 deadline for reporting companies formed prior to January 1, 2024 was extended to January 13, 2025.

The stay of the injunction was short-lived however, as the merits panel of the Fifth Circuit issued an order at 5:00 p.m. on December 26, 2024 clarifying that, “in order to preserve the constitutional status quo while the merits panel considers the parties’ weighty substantive arguments...the motions-panel order granting the Government’s motion to stay the district court’s preliminary injunction enjoining enforcement of the CTA...is VACATED.”

Accordingly, as of the date of this article, the CTA remains preliminarily enjoined and is unenforceable by FinCen on a nationwide basis. However, as the history of the Texas Top Cop Shop case has evidenced, the status of the injunction and the enforceability of the CTA remains subject to change as CTA related litigation progresses.

For additional updates and questions regarding the status of the preliminary injunction or the information required to be reported under the CTA, please reach out to any member of the Lowndes Corporate Group for guidance.