

# CLIENT ALERTS

## FinCEN Responds To Corporate Transparency Act Ruling

### Client Alert

3.11.2024

On March 4, 2024, Butzel published a Client Alert highlighting the March 1, 2024, decision of the Alabama Federal District Court declaring the Corporate Transparency Act (the “CTA”) unconstitutional and permanently enjoining the enforcement of the CTA against the plaintiffs, the National Small Business Association (the “NSBA”) and an individual small business owner, Isaac Winkles.<sup>[1]</sup>

Also on March 4, 2024, the Financial Crimes Enforcement Network (“FinCEN”), which is charged with the enforcement of the CTA, published a Notice on its website<sup>[2]</sup> acknowledging the decision and announcing that it would not be enforcing the CTA against the NSBA, any member of the NSBA as of March 1, or any reporting company for which Isaac Winkles is a beneficial owner or applicant. It is not certain whether FinCEN will appeal the Alabama decision or whether its Notice serves as acceptance of the ruling, though FinCEN’s notice said it would refrain only while the District Court order is in effect, and that the affected entities are not required to report “at this time.”

The FinCEN order is otherwise silent on enforcement, even as to reporting companies located in the Northern District of Alabama, the jurisdiction of the ruling Court. Interestingly, the Court’s injunction, and FinCEN’s announcement, has some extraterritorial effect beyond that district because the NSBA has members spread across the country.

### What Now?

Given the narrow application of the Alabama District Court ruling, reporting companies should assume that the reporting obligations under the CTA continue to apply. The CTA requires newly formed reporting companies (formed in 2024) to submit their beneficial ownership and company applicant information to FinCEN within 90 days after formation. For reporting

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companies formed prior to January 1, 2024, the reporting deadline to submit beneficial ownership information is December 31, 2024.

As we previously outlined in an earlier Client Alert, penalties for noncompliance with the CTA are significant. Willfully providing false or fraudulent information or willfully failing to report complete or updated information can bring jail time of up to 2 years and fines of \$500/day, up to \$10,000.

Butzel will continue to monitor subsequent developments and provide further updates. Please reach out to any of the authors of this Client Alert with questions or concerns regarding your entity's reporting obligations under the CTA.

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[1] *National Small Business United d/b/a The National Small Business Association v. Janet Yellen*, Case No. 5:22-cv-1448-LCB (N.D.Ala 2024).

[2] Notice Regarding National Small Business United v. Yellen, No. 5:22-cv-01448 (N.D Ala.).