

Publications

CTA – Is It Time to Put The Pencils Down?

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CLIENT ALERT | 12.9.2024

There is now a nationwide preliminary injunction against enforcement of the CTA.

On December 3, 2024 a federal district court in Texas issued a nationwide preliminary injunction against enforcement of the Corporate Transparency Act (CTA), including the requirement that many companies must file disclosure reports by January 1, 2025.¹ The defendants have filed a notice of appeal of the district court's order imposing the injunction.

On December 6, the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury charged with CTA regulatory matters, published an alert² confirming that reporting companies currently are not required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the injunction remains in force. However, FinCEN emphasized that reporting companies are permitted to continue to voluntarily submit beneficial ownership information reports.

For background on the CTA, please see this [earlier publication](#).

Takeaways: how should the injunction affect your CTA compliance?

While the injunction remains in effect, **reporting companies need not file their beneficial ownership information with FinCEN**. This applies to:

- initial reports (which, but for the injunction, (A) reporting companies in existence before January 1, 2024 had until January 1, 2025 to file, (B) new reporting companies formed between January 1, 2024 and December 31, 2024 had 90 days to file and (C) new reporting companies formed after December 31, 2024 had 30 days to file);
- updated reports (which, but for the injunction, reporting companies had 30 days to file after changes to the information in their previously filed reports); and

- corrected reports (which, but for the injunction, reporting companies had 30 days to file after becoming aware or having reason to know of an inaccuracy in their previously filed reports).

While the injunction remains in effect, **individuals who have obtained a FinCEN identifier number need not file with FinCEN updated or corrected information** previously submitted to FinCEN in an application for a FinCEN identifier number (which, but for the injunction, such individuals had 30 days to report after changes to the information in their previously filed reports or after becoming aware or having reason to know of an inaccuracy in their applications).

Despite the injunction, **reporting companies are permitted to continue to voluntarily submit beneficial ownership information reports, and individuals are permitted to voluntarily obtain FinCEN identifier numbers and file with FinCEN updated or corrected information in applications for FinCEN identifier numbers.**

It is noteworthy that FinCEN has not clarified whether it will extend a “grace period” to file, in the event that the injunction were to be lifted subsequent to CTA filing deadlines that would be applicable but for the injunction.

- Accordingly, reporting companies and individuals who have FinCEN identifier numbers who choose not to file CTA reports that would be required but for the injunction **should monitor developments in the litigation and be prepared to rapidly gather the necessary information to meet whatever reporting deadlines may result from the disposition of the litigation.** We think it is probable that the courts or FinCEN would grant some grace period to filing parties, but we do not know if such relief would be granted or for how long.

Given the ongoing uncertainties of the current circumstances, some reporting companies could reasonably determine that it may be preferable to continue with CTA filing protocols, at least until there is a final disposition in the litigation. Ultimately, that is a business decision, but there could be merit in that approach, particularly for a company that already has made CTA filings and has established a robust internal CTA compliance protocol. A company would need to take into account the resources needed to gather the information and make the filings, and the possible risk associated with unnecessarily exposing its and its beneficial owners’ confidential information in the CTA database. Also, beneficial owners who have been reluctant to provide personal information to reporting companies may be emboldened by the injunction to refuse to provide their information to reporting companies, making compliance more difficult in those instances.

What does the future hold for the CTA?

The time frame for the court of appeals’ consideration of the issues and an eventual final decision regarding the injunction and the disposition of the CTA is uncertain.

It is conceivable that the change of administration and Congress in Washington— including a new Secretary of the Treasury and Attorney General— might affect the CTA. It is noteworthy that the Project 2025 publication of The Heritage Foundation, which received notoriety during the 2024 presidential election, expressly recommends that Congress should repeal the CTA and that FinCEN should withdraw the CTA regulations. At this point, predictions about the future of the CTA are speculative.

Please contact one of the authors of this alert or your regular Vorys contact attorney for more information about CTA compliance.

¹ Texas Top Cop Shop, Inc. v. Garland, Civil Action No. 4:24-CV-478 (E.D. Tex. Sherman Div.)

² <https://fincen.gov/boi>