CLIENT ALERTS & INSIGHTS

Nationwide Pause of Corporate Transparency Act and BOI Reporting Requirements

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Entities subject to CTA coverage should continue to prepare to report BOI to FINCEN.

On December 3, 2024, the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction blocking the U.S. Department of Treasury from enforcing the Corporate Transparency Act's (CTA) new beneficial ownership information (BOI) reporting requirements. *Texas Top Cop Shop v Garland et al.*, 4:24-cv-00478 (Dec. 3, 2024). The injunction comes almost a year after the CTA went into effect in January of 2024, imposing on certain domestic and foreign companies the obligation to report BOI to the Financial Crimes Enforcement Network ("FINCEN") by January 1, 2025-a deadline now stayed by the nationwide injunction.

This case began when a group of small business owners and a trade association sought to enjoin the CTA's enforcement. Basing their argument on the Tenth Amendment, Plaintiffs contended that the CTA unconstitutionally oversteps into realms governed exclusively by the States. The Government countered that the CTA falls within Congress's authority through the Commerce Clause and the Necessary and Proper Clause.

In issuing the preliminary injunction, the Court recognized that the CTA was Congress's attempt to "combat bad actors' ability to cloak their criminal activities in a veil of corporate anonymity." However, it ultimately rejected the Government's arguments. It reasoned that, as the CTA did not regulate channels or instrumentalities of interstate commerce or regulate activities substantially impacting interstate commerce, the CTA exceeded Congress's Commerce Clause powers. It further rejected the Government's argument based on the Necessary and Proper Clause that the CTA was necessary to effectuate Congress's powers over commerce, foreign affairs, and taxes. In the end, Court held that Plaintiffs were likely to succeed on the merits of their Tenth Amendment argument that the CTA unconstitutionally encroached on areas of law reserved to the States.

The order pauses the enforcement of the CTA nationwide and stays the reporting rule, which technically suggests that businesses would not be required to comply with the CTA's BOI reporting requirements. However, this ruling is far from the end of the legal battle surrounding the CTA-the government is likely to appeal in the coming days and the new administration could add further uncertainty to the CTA's future. Any appeal or circuit split would continue to keep the existing law in an ambiguous state. As we reported previously, the Eleventh Circuit Court of Appeals is currently considering a similar appeal arising from a more limited injunction imposed by the District Court for the Northern District of Alabama. In addition, the injunction only effects the federal CTA, and does not limit any State-imposed transparency requirements.

Given the looming January 1, 2025 compliance deadline and the lack of a high court ruling, entities subject to CTA coverage should continue to prepare to comply with the reporting requirements set forth by FINCEN.

The future of the CTA is uncertain, and reporting entities should work with experienced counsel to navigate this ever-shifting landscape. If you have questions regarding the CTA or the impact of the *Texas Top Cop Shop* decision, the White Collar and Corporate & Securities Practice Groups at Benesch are here to help.

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