

Practice Update

UPDATE: FinCEN Alerts That CTA Reporting Is Voluntary While Preliminary Injunction Remains in Effect

December 9, 2024

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This article is an update to the December 5, 2024, article: [UPDATE: Nationwide Injunction Halts Corporate Transparency Act Enforcement](#)

On December 3, 2024, the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction in *Texas Top Cop Shop, Inc., et al. v. Garland*, temporarily suspending enforcement of the Corporate Transparency Act (CTA) and its Beneficial Ownership Information (BOI) reporting rule. This ruling halts the implementation of the CTA and suspends all BOI reporting requirements across the country. On December 5, 2024, the U.S. Department of Justice filed a notice of appeal, signaling the Government's challenge to the preliminary injunction.

Also on December 5, 2024, the Financial Crimes Enforcement Network (FinCEN) issued an [alert](#) confirming that it will comply with the Eastern Texas District Court's order while it remains in effect. Reporting companies are currently not required to file BOI reports with FinCEN and will not face penalties for failing to report during this period. However, they still have the option to voluntarily submit their BOI reports if they choose to.

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The Texas Top Cop Shop case is one of several lawsuits challenging the constitutionality of the CTA. Courts across different jurisdictions have issued varied rulings on the matter. For instance, while the U.S. District Court for the Eastern District of Texas granted a nationwide preliminary injunction that halted CTA enforcement, the U.S. District Court for the Eastern District of Virginia and the District of Oregon denied the plaintiffs' motions for a preliminary injunction, finding that the plaintiffs failed to demonstrate a likelihood of success on the merits of their claims that the CTA is unconstitutional. Alternatively, the U.S. District Court for the Northern District of Alabama granted summary judgment for the plaintiffs and enjoined CTA enforcement, but this ruling applied only to the specific plaintiffs involved in that case. Plaintiffs in both the Virginia and Oregon cases filed notices of appeal to their respective appellate courts — the Fourth and Ninth Circuits — while in the Alabama case, the Government has appealed the decision to the Eleventh Circuit.

FinCEN has yet to provide guidance on how much time reporting companies will be granted to file their BOI reports if the Texas District Court's injunction is lifted and how quickly enforcement of the CTA would resume. Given this uncertainty, it is advisable for businesses to continue assessing their BOI reporting requirements and gathering the necessary information in preparation for potential resumption of CTA enforcement.

If you have any questions on how this FinCEN alert affects your specific situation, please don't hesitate to reach out to your Akerman contact.

Sources:

<https://www.fincen.gov/boi>

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