Corporate Transparency Act: Enforcement Continues to be Halted Pending Further Court Developments

January 1, 2024 – Cross-Border Counselor
by James Guttman

As noted in our post of December 18, Canadian companies with U.S. subsidiaries have been gearing up all year to file beneficial ownership reports with FinCEN pursuant to the Corporate Transparency Act, in advance of a January 1, 2025 deadline for entities that were formed prior to 2024. Many have already completed their analysis and either determined that they qualify for an exemption or filed their initial beneficial ownership reports.

On December 3, 2024, the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction against enforcement of the January 1, 2025 deadline. On December 23, 2024, the motions panel of the United States Court of Appeals for the Fifth Circuit granted the government's emergency motion and stayed the temporary nationwide injunction. Shortly thereafter, FinCEN issued a notice confirming that compliance with the CTA and the FinCEN Regulations was once again effective—but issued new and slightly extended compliance deadlines (for most reporting companies – to January 13, 2025).

On December 26, 2024, in order to "preserve the constitutional status quo while the merits panel considers the parties' weighty substantive arguments", the merits panel of the United States Court of Appeals for the Fifth Circuit vacated that decision and reinstated the temporary preliminary injunction.

On December 27, 2024, FinCEN swiftly confirmed that beneficial ownership information reports were, once again, not currently required, but that reporting companies may continue to submit reports on a voluntary basis.

The continued back and forth between the courts (and even within the same court) demonstrates the legal and political tensions (and accompanying confusion) that reporting companies are facing as they continue to grapple with their obligations under the CTA. While this latest development may be welcome relief for many, reporting companies should continue to be prepared to file their BOI Reports on short notice -

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particularly as the case in issue, Texas Top Cop Shop v Garland et al., is on expedited appeal.