

U.S. Government Appeals CTA Injunction – But Changes to Reporting Requirements May Be On The Horizon

by Erin Bryan, Nathan Honson, Joseph Lynyak, and Matthew Dickerson

As we previously reported, on January 23, 2025, the Supreme Court of the United States ruled in favor of the U.S. government in relation to the Corporate Transparency Act (“CTA”) – granting an emergency application to overturn the nationwide preliminary injunction against enforcement of the CTA that has been in place, on and off, since December 3, 2024. *Texas Top Cop Shop v Garland et al.*, No. 4:24-cv-00478, December 3, 2024 (E.D. Tex.).

However, as a result of a *different* nationwide order, issued on January 7, 2025 by the Eastern District of Texas, in a *separate* case challenging the constitutionality of the CTA (*Smith v. United States Dep’t of the Treasury*, 2025 WL 41924 (E.D. Tex.) – the effective date of the reporting rule under the CTA remains on hold.

On February 5, 2025, the Department of Justice, on behalf of the Department of the Treasury, filed a notice of appeal of the district court’s order in *Smith* and, in parallel, has sought to stay that order as the appeal proceeds.

In an update on its website, FinCEN thereafter confirmed that, if such stay is granted, it intends to extend the reporting deadline for all reporting companies 30 days from the date the stay is granted. Further, the update provides: “*in keeping with Treasury’s commitment to reducing regulatory burden on businesses, FinCEN, during that 30-day period, will assess its options to modify further deadlines or reporting requirements for lower-risk entities, including many U.S. small businesses, while prioritizing reporting for those entities that pose the most significant national security risks.*”

The precise details of any such modifications remain unclear– particularly what types of entity FinCEN would consider “*lower-risk*” and the reasoning for potentially excluding U.S. small businesses, which are the primary focus of the CTA (as “large operating companies” are exempt from the reporting requirements). However, as of the date of publication, reporting companies do not (yet) need to comply with the beneficial ownership information reporting requirements of the CTA, but may continue to file reports

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on a voluntary basis.

In an additional development in the underlying appeal in the *Texas Top Cop Shop* case, on February 7, 2025, notwithstanding the change in Administration, the DOJ continues to claim that “[e]joining the CTA would hinder the government’s efforts” to prevent, detect and prosecute financial crimes.

Despite the continued uncertainty, reporting companies should continue to be prepared to file their BOI Reports on short notice if, or when, the reporting rule is reinstated.

We will continue to monitor developments, and will be available to assist in compliance efforts.