

NIESAR & VESTAL LLP

## Law Alert

December 12, 2024

### Recent Developments Regarding the CTA Filing Obligations

As we noted in an earlier [law alert](#), on December 3, 2024, the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction in the case of *Texas Top Cop Shop v. Garland*, blocking the U.S. Department of Treasury from enforcing the Corporate Transparency Act's (CTA) beneficial ownership information (BOI) reporting requirements.

On December 5, 2024, the Department of Justice, on behalf of the Department of the Treasury, filed a Notice of Appeal to the Fifth Circuit challenging the nationwide preliminary injunctive relief from compliance with the reporting obligations under the CTA.

The Financial Crimes Enforcement Network (FinCEN) followed the appeal by issuing a [statement](#) confirming that reporting companies are not currently required to file BOI reports and are not subject to liability if they fail to do so while the litigation is pending, and the District Court's order remains in effect. However, FinCEN has **not** provided assurance that it will not immediately enforce the CTA in the event the injunction is overturned.

On December 11, 2024, the defendants in the case of *Texas Top Cop Shop v. Garland* moved the Court to stay the preliminary injunction pending a decision from the Fifth Circuit on defendants' appeal. The [Defendants' Motion to Stay Preliminary Injunction Pending Appeal](#) (Motion) was accompanied by the declaration of Andrea Gacki, Director of FinCEN, in support of the Motion. The Motion was also accompanied by a [Proposed Order](#) granting stay pending appeal. On December 12, 2024, the U.S. District Court for the Eastern District of Texas gave the plaintiffs until December 16, 2024 to respond to the Motion.

In light of these recent developments, entities subject to the CTA should stay proactive despite the preliminary injunction. If the Proposed Order mentioned above is approved, the CTA may become immediately enforceable.

Considering the high likelihood that the Proposed Order may be approved, reporting companies that are non-exempt should consider filing a BOI report by the filing deadline. As explained in our [law alert](#) issued on October 28, 2024, reporting companies created before January 1, 2024 have until January 1, 2025 to file an initial BOI report under the CTA.

The FinCEN BOI E-Filing System remains active to file BOI reports, and FinCEN stated that reporting companies can still file BOI reports voluntarily while the litigation is pending. The [law alert](#) we published on February 23, 2024 summarizes the CTA main requirements and contains filing instructions.

If you have questions arising out of the CTA and/or the aforementioned recent developments, please feel free to contact Carolina Aricu ([caricu@nvlawllp.com](mailto:caricu@nvlawllp.com)), Gerald Niesar ([gniesar@nvlawllp.com](mailto:gniesar@nvlawllp.com)) or Oscar Escobar ([oescobar@nvlawllp.com](mailto:oescobar@nvlawllp.com)).

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