

NIESAR & VESTAL LLP

Law Alert

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Fifth Circuit Reinstates Nationwide Injunction, Pausing CTA Filing Obligations Once Again

On December 26, 2024, the merits panel of the U.S. Court of Appeals for the Fifth Circuit reinstated the nationwide preliminary injunction blocking the Financial Crimes Enforcement Network (FinCEN) from enforcing the Corporate Transparency Act (CTA). Thus, reporting companies under the CTA are, once again, **not required to file** their beneficial ownership information with FinCEN while the preliminary injunction remains in effect.

As a reminder, 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 CTA's beneficial ownership information reporting requirements. On December 23, 2024, a federal Court of Appeals decision lifted the preliminary injunction. In light of this decision, reporting companies were once again required to file beneficial ownership information with FinCEN.

Considering the December 26, 2024 ruling, the preliminary nationwide injunction against the enforcement of the CTA is once again in effect. Shortly after the new Fifth Circuit ruling, FinCEN posted an updated Alert noting that although "reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force," those companies "may continue to voluntarily submit beneficial ownership information reports."

On December 27, 2024, the Fifth Circuit issued an expedited briefing schedule, with briefing to be completed by February 28, 2025, and oral arguments following on March 25, 2025. As a result, the injunction will likely remain in effect until the Fifth Circuit issues an opinion on the merits after the oral arguments, absent intervention by the *en banc* Fifth Circuit or the Supreme Court.

On December 31, 2024, the Solicitor General asked the Supreme Court to stay the District Court's injunction.

The status of the CTA remains uncertain, as the last month of 2024 has shown that the situation can change in a matter of days. Although the reporting deadlines are currently on pause, reporting companies should continue to monitor for additional updates or guidance from FinCEN.

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), Gerald Niesar (gniesar@nvlawllp.com) or Oscar Escobar (oescobar@nvlawllp.com).

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