

# Is the CTA Dead? U.S. District Court Issues Nationwide Preliminary Injunction

December 5, 2024

On December 3, 2024, the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction enjoining enforcement of the Corporate Transparency Act and its implementing regulations issued by the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") (together, the "CTA").<sup>1</sup> The ruling pauses beneficial ownership reporting obligations for companies within the CTA's scope.

Although the District Court determined that the CTA is likely unconstitutional, the decision does not rule on the merits in this regard and only temporarily pauses enforcement of the CTA. Nevertheless, the District Court's order represents perhaps the most formidable challenge to the CTA to date. Beyond delaying the CTA's implementation, the ruling could be the first major step in the repeal of the beneficial ownership reporting regime under the incoming Trump Administration.

**Background.** The CTA was enacted as part of the National Defense Authorization Act for Fiscal Year 2021 and, generally, requires FinCEN to implement a beneficial ownership reporting regime, with certain companies required to disclose information about their beneficial owners, senior officers and other control persons to the federal government.

FinCEN's first regulation implementing the CTA was published on September 30, 2022 and went into effect on January 1, 2024. It established which entities must report beneficial ownership information to FinCEN, what information must be reported and when reports are due. Before the recent District Court ruling, reporting companies created or registered to do business in the United States on or after January 1, 2024 were required to report beneficial ownership information to FinCEN within a specified period after their creation or registration, and entities created and registered to do business before January 1, 2024 would have been required to file initial beneficial ownership information reports by January 1, 2025.

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<sup>1</sup> *Texas Top Cop Shop, Inc., et al. v. Merrick Garland, et al.*, No. 4:24-cv-478 (E.D. Tex., Dec. 3, 2024), available [here](#).

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**Complaint.** The plaintiffs in the Texas case filed suit in May 2024, claiming that Congress exceeded its authority in enacting the CTA and that the statute violates the First, Fourth, Ninth and Tenth Amendments of the U.S. Constitution.

**Decision.** Saving the question of whether the CTA is “absolutely unconstitutional ... for another day,” the District Court found a substantial likelihood of success on the plaintiffs’ Tenth Amendment challenge because the CTA likely extends beyond Congress’s powers under the Commerce Clause and the Necessary and Proper Clause.

The District Court accordingly granted the plaintiffs’ motion for a preliminary injunction to enjoin enforcement of the CTA. Having determined that the plaintiffs satisfied the elements for a preliminary injunction, the District Court also determined that a stay of the January 1, 2025 reporting deadline under section 705 of the Administrative Procedure Act was “necessary to prevent irreparable injury.”<sup>2</sup>

**Implications.** As a result of the District Court’s ruling, the obligation to comply with beneficial ownership reporting requirements under the CTA is currently suspended, and companies need not file beneficial ownership reports with FinCEN. It also appears to us that updates to previously filed reports are no longer mandated, although the District Court does not directly address such updates.

The federal government has 60 days following entry of the District Court’s order to appeal the decision to the U.S. Court of Appeals for the Fifth Circuit. Although this timeframe provides the Biden Administration the opportunity to appeal, defense of the CTA would eventually fall on the Trump Administration, which may be less inclined to move forward with the appeal. “Project 2025,” although not endorsed directly by President-elect Trump, calls on Congress to repeal the Corporate Transparency Act and FinCEN to withdraw its implementing regulation.<sup>3</sup>

**Other Litigation and Next Steps.** The Texas action is among a number of lawsuits seeking to halt enforcement of the CTA, including *Firestone v. Yellen* and *Cnty. Ass’ns Inst. v. Yellen*, which rejected plaintiffs’ requests for a preliminary injunction, and other cases that have not yet been decided.<sup>4</sup> In the meantime, the U.S. Court of Appeals for the Eleventh Circuit is expected to issue a decision in the coming weeks on the government’s appeal of an Alabama district court final declaratory judgment from

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<sup>2</sup> 5 U.S.C. § 705.

<sup>3</sup> The Heritage Foundation, “Mandate for Leadership: The Conservative Promise” at 707-8 (2023), available [here](#).

<sup>4</sup> *Firestone, et al. v. Yellen, et al.* No. 3:24-cv-1034-SI (D. Ore. Sept. 20, 2024); *Cnty. Ass’ns Inst. v. Yellen*, No. 1:24-cv-1597 (E.D. Va. Oct. 24, 2024); *William Boyle v. Janet Yellen, et al.*, No. 2:24-cv-00081-LEW (D. Me. Mar. 15, 2024); *Black Economic Council of Massachusetts, Inc., et al. v. Janet Yellen, et al.*, No. 1:24-cv-11411-PBS (D. Mass. May 29, 2024).

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earlier this year finding the CTA unconstitutional and enjoining its enforcement against the plaintiffs in that litigation.<sup>5</sup>

As with the Alabama judgment, we expect that FinCEN will issue a statement addressing the Texas court's decision in the coming days.

For now, companies within the CTA's scope need not file beneficial ownership reports or updates to previously filed reports with FinCEN, but firms that were in the process of collecting information for filings may want to continue to do so in case of further developments restoring CTA obligations. Firms should continue to monitor developments closely.

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Please do not hesitate to contact us with any questions.



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<sup>5</sup> *National Small Business United, d/b/a the National Small Business Association, et al., v. Yellen, et al.*, No. 5:22-CV-1448-LCB (N.D. Ala. Mar. 1, 2024), available [here](#). See our discussion of the case and appeal [here](#) and [here](#).