

Corporate Transparency Act Update: Reporting Obligations Remain Voluntary Despite Recent U.S. Supreme Court Order

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As we initially reported, the Corporate Transparency Act (“CTA”) took effect on January 1, 2024, requiring Reporting Companies (as defined by the CTA) to file beneficial ownership information reports (“BOIRs”) with the U.S. Treasury’s Financial Crimes Enforcement Network (“FinCEN”). Throughout 2024, multiple plaintiffs challenged the constitutionality and enforceability of the CTA in federal courts across the nation. On December 3, 2024, in *Texas Top Cop Shop*, the U.S. District Court for the Eastern District of Texas declared the CTA “likely unconstitutional” and issued a nationwide preliminary injunction halting its enforcement.

As we reported, in response to the injunction, FinCEN confirmed Reporting Companies are not obligated to file BOIRs while the injunction is in place. Meanwhile, the government appealed the injunction, and on December 23, 2024, the U.S. Court of Appeals for the Fifth Circuit lifted the preliminary injunction, which revived the BOIR filing requirement, as we reported here. However, only three days later, on December 27, 2024, the Fifth Circuit reversed course, vacating the order and reinstating the preliminary injunction making BOIR reports optional yet again, as we explained in our latest report.

Recent Developments

Yesterday, January 23, 2025, the U.S. Supreme Court granted the government’s request to lift the preliminary injunction issued in *Texas Top Cop Shop*, which led many to speculate about Reporting Companies’ obligations to file BOIRs. However, despite the Supreme Court’s order in *Texas Top Cop Shop*, ***BOIR filings remain optional at this time***.

As FinCEN noted in an updated statement released today on its website, there is still a nationwide preliminary injunction in place halting enforcement of the CTA and its reporting requirements due to a separate nationwide preliminary injunction issued on January 7, 2025, in *Smith v. U.S. Department of the Treasury*. The *Smith* decision and injunction has the same practical effect as the initial preliminary injunction issued in *Texas Top Cop Shop* – Reporting Companies are not currently required to file BOIRs, although they may file voluntarily.

As mentioned in our prior Client Alerts linked above, there is not yet a final decision on the constitutionality of the CTA, and businesses should be aware that the reporting deadlines could be reinstated if the *Smith* injunction is lifted, or a permanent injunction is not awarded on the merits of the pending cases.

What Now?

In short, the CTA remains unenforceable at this time. Reporting companies and their individual beneficial owners and company applicants (if applicable) are not obligated to submit BOIRs or otherwise comply with the CTA. Likewise, businesses that have already submitted an initial BOIR, and individuals who have obtained FinCEN IDs, are not obligated to update any information previously provided under

the CTA.

Given the continued uncertainty surrounding the CTA, it is still up to each business to decide whether to continue compliance efforts with the CTA as it remains voluntary to obtain a FinCEN ID or submit BOIRs. However, the conservative approach remains to assume the CTA will eventually be enforced and, at minimum, identify individual beneficial owners and company applicants (if applicable) and gather all the information that will need to be included in any BOIRs. Business owners should remain diligent and be prepared to file in the event the injunction is overturned, or the CTA is deemed constitutional. In that case, Reporting Companies may need to move swiftly to make the required filings before the deadlines in place at that time.

Please contact the Seigfreid Bingham Corporate Law Practice Group or your regular Seigfreid Bingham contact with any questions.

This article is general in nature and does not constitute legal advice. The authors of this article are members of Seigfreid Bingham's Corporate Law Practice Group and Corporate Transparency Act Task Force and routinely represent clients in corporate structuring and other general business matters. If you or your organization have questions about the impact of these developments, please contact John Fuchs, Rachel Sterbenz, Emily Crane, or Tate Thompson at 816.421.4460.