An anti-money laundering law called the Corporate Transparency Act (CTA)

n Dec. 3, 2024, a federal district court in Texas issued a nationwide preliminary injunction preventing the federal government from requiring certain businesses to report their "beneficial owners" to the U.S. Department of the Treasury by January 1, 2025. This reporting requirement was passed by Congress in the Corporate Transparency Act, which is a law intended to help the Treasury Department target illicit financial activity. The Texas district court concluded that the CTA's reporting requirement was unconstitutional and, therefore, it issued the preliminary injunction.

Background for those of you who missed our CTA article in our fall edition, the CTA requires millions of small business owners to register with the Financial Crimes Enforcement Network, or FinCEN, by mid-January, or potentially pay fines of up to \$10,000.

The registration rule had been on hold since Dec. 3, when a federal court in Texas issued a preliminary injunction prohibiting its enforcement. But on December 23, 2024 the 5th U.S. Circuit Court of Appeals lifted the order, ruling that the decision is in the "public's urgent interest in combating financial crime and protecting our country's national security."

On Dec. 26, 2024, the Fifth Circuit appellate court vacated its order reinstating the nationwide injunction, meaning for now, you do not need to report.

The CTA requires that the owners and part-owners of an estimated 32.6 million small businesses must register personal information with FinCEN, such as a photo ID and home address, by Jan. 1. With the court ruling that enforcement can proceed, many small business owners may scramble to register ahead of deadline, although FinCEN said on Monday that it is extending the deadline until Jan. 13 due to the late December court ruling.

Earlier in 2024 we reported on the Corporate Transparency Act, passed by Congress in 2021. It is a piece of bipartisan legislation that became effective on January 1, 2024. The new federal rule now requires more than 32 million small businesses nationwide to file ownership information to an agency in the U.S. Treasury Department or face potential penalties, however, many of these businesses don't know about it, reported The Wall Street Journal.



information (BOI) reports to the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

BOI information includes the legal name, birth date, current address and copy of a governmental id for each person that originally started the business and for all current beneficial owners. Yes, the original founder of the company who may be long dead. You also need the country and or state of formation for the company, addresses where it conducts business and other company structure information. For small businesses, these reporting requirements require a significant amount of complex paperwork that is burdensome to meet. Not only that, but now we have yet another repository of sensitive material for identity theft hacking.

The legislation was passed with hopes it will curtail the use of anonymous shell companies and track the flow of illicit money, stated the Wall Street Journal. The law creates a beneficial ownership database and reporting requirements for companies to file ownership information to FinCEN, similar to existing requirements in the U.K. and the European Union.

The Wall Street Journal reported that the Financial Crimes Enforcement Network, the anti-money-laundering bureau of the Treasury Department, says it has been working hard to inform those affected by the new law, spreading the word through social media and asking other government agencies to help. But smallbusiness advocates say more needs to be done. 2022 filed a lawsuit challenging the law.

Entities created in 2024 have 90 days to file after they initially register, making early April the first possible deadline, while companies created before this year have one year to file their report, according to FinCEN. The report includes identifying information about who directly or indirectly owns or controls the company, including names, addresses, and identification documents.

In *Top Copy Shop v. Garland*, plaintiffs alleged the CTA represents an unconstitutional expansion of federal power, threatens privacy and associational interests, and violates individual rights. The Court agreed with the plaintiffs, finding they were likely to prevail on their argument that the CTA exceeded Congress' enumerated powers.

Other organizations involved in the fight include R-CALF (Ranchers-Cattlemen Action Legal Fund). On July 29, 2024, R-CALF USA, the People Restored, Crofter Market, Utah OSR Land Cooperative, and several Utahbased individuals filed a joint lawsuit in the U.S District Court for the District of Utah against the U.S. Department of the Treasury and others, seeking a declaration from the court that would repeal the law.

In mid-December, a hearing was held in the Utah case. Following courts across the country that are also reviewing challenges against the law; as a result of the Texas injunction and pending the new presidential administration, the Utah court issued a 90-day stay.

The CTA requires state or tribal registered corporations or limited liability companies with under 20 employees whose gross receipts are under \$5 million to report private, sensitive information on "beneficiary owners" to the federal government, which will purportedly be stored in a secure government database.

The original regulation requires foreign entities registered to do business in the United States, as well as, state or tribal registered corporations or limited liability companies, with under 20 employees whose gross receipts are under \$5 million, to submit beneficial ownership "As we talk to small businesses, there is a great lack of awareness on this," said Todd McCracken, president of the National Small Business Association. The advocacy group in

Corporate Transparency Act



R-CALF USA and its fellow plaintiffs' case differs from the Texas case as it argues additional constitutional violations. Both cases seek to repeal the CTA.

In addition to litigation pushback, in Congress, the Repealing Big Brother Overreach Act (H.R.8147 and S.4297) seeks to repeal the CTA. With 100 cosponsors in the House and 17 in the Senate, R-CALF USA encourages swift passage of the legislation.

Stay Tuned.... 🕱