January 1, 2025 Deadline:
The Corporate Transparency Act and Reporting Ownership in Professional Practices

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Background

The Corporate Transparency Act (CTA)[1] was enacted by Congress to root out money laundering schemes and foreign criminal investments. Corresponding regulations enacted by the Department of the Treasury through the Financial Crimes Enforcement Network (FinCEN) require most American companies, including professional practices, to file a Beneficial Ownership Information Report form (BOIR) by January 1, 2025 or face substantial criminal and civil penalties.[2] In short, the reporting rule requires detailed information about each individual who formed, has any substantial controlling authority in, or who owns 25% or more of the company. The information gathered is available to most law enforcement agencies.

Challenges to the Corporate Transparency Act

Several businesses and organizations challenged the authority of Congress and Department of the Treasury's FinCEN to enact and enforce the CTA, questioning the federal government's right to delve into the ownership and management of private companies organized and operating under state law. Such challenges are based on constitutional limits that allow Congress to exercise only those powers that the Constitution expressly vests, reserving the remainder to the States and the people. In ongoing legal cases, Treasury argues Congress was given authority by the Commerce Clause, Article I, §8, cl. 3 of US Constitution. On December 3, 2024, a Federal District Court for the Eastern District of Texas issued a preliminary injunction prohibiting the Department of Treasury from enforcing the CTA against any party nationwide ruling in *Texas Top Cop Shop, Inc., et al. v. Garland, et. al.* The court held that nothing in the Commerce Clause gave the government the power to impose the CTA on business entities lawfully organized and operating under state law, because they were not automatically involved in interstate commerce. On December 23, 2024, however, the United States Court of Appeals for the Fifth Circuit, District Court granted a stay of the injunction pending appeal.[3] Other cases challenging the CTA are also ongoing.[4]

Conclusion

Because the *Texas Top Cop* nationwide injunction against the CTA reporting requirements was stayed, reporting is required by the January 13, 2025 deadline. Reports can be filed through FinCEN's E-filing portal at https://www.fincen.gov/boi and a copy of the E-filing form is attached.

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1 31 USC §5336.

2 31 CFR §1010.380.

3 See *Texas Top Cop Shop, Incorporated; Russell Straayer; Mustardseed Livestock, LLC; Libertarian Party of Mississippi; National Federation of Independent Business, Incorporated; Data Comm for Business, Incorporated v. Merrick Garland, U.S. Attorney General; Treasury Department; Andrea Gacki, Director of the Financial Crimes Enforcement Network; Financial Crimes Enforcement Network; Janet Yellen, Secretary, U.S. Department of Treasury,* No. 4:24-CV-478; United States Court of Appeals for the Fifth Circuit, No. 24-40792.

4 *Nat'l Small Bus. United v. Yellen*, No. 5:22-cv-01448-LCB, 2024; *Firestone v. Yellen* (134 A.F.T.R.2d 2024 5683; 2024); and *Community Associations Institute v. Yellen* (2024 U.S. Dist. LEXIS 193958).

Notice of Limitations

This article is a general review to help identify issues for discussion and further inquiry. It is not a substitute for obtaining legal advice or review from other sources of authoritative expertise. Laws, regulations and policies of government agencies are constantly subject to amendment and changes in interpretation. Moreover, audit and enforcement actions are always subject to the discretion of government officials.



BOIR Form.pdf