

ALERTS

Corporate Transparency Act Update: Federal District Court Rules the Act Unconstitutional

March 5, 2024

On March 1, 2024, Judge Liles C. Burke of the US District Court for the Northern District of Alabama found the Corporate Transparency Act (“CTA”) unconstitutional. The CTA, which was enacted on Jan. 1, 2021, requires certain legal entities (known as “Reporting Companies”) to file beneficial ownership information reports (“BOI Reports”) with the US Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”).^[1] Judge Burke’s 53-page opinion concluded that “the CTA exceeds the Constitution’s limits on the legislative branch and lacks a sufficient nexus to any enumerated power to be a necessary or proper means of achieving Congress’ policy goals.”^[2] Judge Burke also issued a final judgment permanently enjoining the US Government from enforcing the CTA against the two plaintiffs —the National Small Business Association, a non-profit trade group that represents more than 65,000 member companies, and one of its members.^[3]

The government is likely to appeal the ruling to the US Court of Appeals for the Eleventh Circuit. The US Department of the Treasury or FinCEN may also issue a statement or guidance about the ruling.

In the interim, the CTA continues to be effective as to all Reporting Companies other than the plaintiffs in the Alabama Case. We will continue to monitor for any developments related to this case but also note that, as of now, filings for new Reporting Companies formed in 2024 will continue to become due starting March 31, 2024 (90 days after the effective date of Jan. 1, 2024).

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

[1] For more information on the beneficial ownership information reporting obligation under the CTA, please see our prior *Alerts*: (1) “FinCEN Issues Final Rule Requiring Reporting of Beneficial Ownership Information,” available [here](#); (2) “The Corporate Transparency Act: Key Considerations for Compliance With the Beneficial Ownership Reporting Rule,” available [here](#) and (3) “The Corporate Transparency Act: The Private Funds Guide to Compliance With the Beneficial Ownership Reporting Rule,” available [here](#).

[2] *Nat’l Small Bus. United v. Yellen*, No. 5:22-cv-01448 (N.D. Ala. Nov. 15, 2022), available [here](#).

[3] On March 4, 2024, FinCEN issued a notice stating that, as a result of Judge Burke’s injunction, the government is not currently enforcing the CTA against the National Small Business Association or its members.

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