

*In light of a recent federal court order, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force. However, reporting companies may continue to voluntarily submit beneficial ownership information reports.*

*Current Status of Texas Top Cop Shop, Inc., et al. v. Garland, et al., No. 4:24-cv-00478 (E.D. Tex.) and Voluntary Submissions*

The Corporate Transparency Act (CTA) plays a vital role in protecting the U.S. and international financial systems, as well as people across the country, from illicit finance threats like terrorist financing, drug trafficking, and money laundering. The CTA levels the playing field for tens of millions of law-abiding small businesses across the United States and makes it harder for bad actors to exploit loopholes in order to gain an unfair advantage.

On Tuesday, December 3, 2024, in the case of *Texas Top Cop Shop, Inc., et al. v. Garland, et al.*, No. 4:24-cv-00478 (E.D. Tex.), the U.S. District Court for the Eastern District of Texas, Sherman Division, issued an order granting a nationwide preliminary injunction. The Department of Justice, on behalf of the Department of the Treasury (Treasury), filed a Notice of Appeal on December 5, 2024 and separately sought a stay of the injunction pending that appeal.

On December 23, 2024, a panel of the U.S. Court of Appeals for the Fifth Circuit granted a stay of the district court's preliminary injunction entered in *Texas Top Cop Shop, Inc.*, pending the outcome of Treasury's ongoing appeal of the district court's order. Treasury immediately issued an alert notifying the public of this ruling and recognizing that reporting companies may have needed additional time to comply with beneficial ownership reporting requirements, Treasury extended reporting deadlines. However, on December 26, 2024, a different panel of the U.S. Court of Appeals for the Fifth Circuit issued an order vacating the Court's December 23, 2024 order granting a stay of the preliminary injunction. On December 31, 2024, the Department of Justice, on behalf of Treasury, sought a stay of the injunction pending the ongoing appeal from the Supreme Court of the United States.

In the meantime, as of December 26, 2024, the injunction issued by the district court in *Texas Top Cop Shop, Inc.* is once again in effect. FinCEN is complying with—and will continue to comply with—the district court's order for as long as it remains in effect. As a result, reporting companies are not currently required to file beneficial ownership information with FinCEN. Reporting companies may continue to voluntarily submit beneficial ownership information reports.

*Other Updates*

*Texas Top Cop Shop, Inc.* is only one of several cases that have challenged the Corporate Transparency Act (CTA) pending before courts around the country.

As noted in a separate alert, on March 1, 2024, the U.S. District Court for the Northern District of Alabama, Northeastern Division, entered a final declaratory judgment, concluding that the CTA exceeds the Constitution's limits on Congress's power and enjoining Treasury from enforcing the CTA against the plaintiffs. As a result, the government, even in the absence of an injunction, is not currently enforcing the Corporate Transparency Act against the plaintiffs in that action: Isaac Winkles, reporting companies for which Isaac Winkles is the beneficial owner or applicant, the National Small Business Association, and members of the National Small Business Association (as of March 1, 2024). Treasury has appealed that judgment, and that appeal is pending before the Eleventh Circuit.

However, since March 2024, other district courts have denied requests to enjoin the CTA, ruling in favor of Treasury—in particular:

- On April 29, 2024, in *Small Business Association of Michigan, et al. v. Yellen, et al.*, No. 1:24-cv-314 (W.D. Mich.), the U.S. District Court of the Western District of Michigan, denied a motion for a preliminary injunction.
- On September 20, 2024, in *Firestone, et al. v. Yellen, et al.*, No. 3:24-cv-01034 (D. Or.), the U.S. District Court for the District of Oregon also declined to issue a preliminary injunction on behalf of plaintiffs—seven individuals—challenging the constitutionality of the CTA. In denying plaintiffs’ motion, the district court found that plaintiffs had not shown a likelihood of success on the merits with respect to their claims that the CTA exceeds Congress’ authority under the Constitution and violates the First, Fourth, Fifth, Eighth, Ninth, and Tenth Amendments. In its opinion and order, the district court noted that enjoining enforcement of the CTA “would interfere with Congress’ judgment, supported by extensive factual findings, about how best to combat money laundering, the financing of terrorism, tax fraud, and other serious crimes that affect the national economy or national security.” Plaintiffs have appealed the court’s decision, and that appeal is pending before the Ninth Circuit.
- On October 24, 2024, in *Community Associations Institute, et al. v. Yellen, et al.*, No. 1:24-cv-01597 (E.D. Va.), the U.S. District Court for the Eastern District of Virginia likewise denied a motion by plaintiffs, including an organization that represents community associations throughout the country, for a preliminary injunction. In doing so, the district court found that plaintiffs were unlikely to succeed on their claims that (1) Congress overstepped the outer bounds of its commerce power in enacting the CTA; (2) the CTA violates the First and Fourth Amendments; and (3) the statutory exemptions in the CTA relieve community associations of the obligation to report beneficial ownership information. Plaintiffs have appealed the court’s decision, and that appeal is pending before the Fourth Circuit.

The government continues to believe—consistent with the orders issued by the U.S. District Courts for the District of Oregon and the Eastern District of Virginia— that the CTA is constitutional and will continue defending the law as necessary.