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**Client & Friends Alert<sup>1</sup>**

Corporate Transparency Act (CTA) Halted Again: Confusion Reigns!

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Briefly, for those of you not yet familiar with it, the Corporate Transparency Act (CTA) that took effect January 1, 2025 has expanded U.S. governmental money laundering enforcement through new reporting requirements affecting more than 33 million small businesses. On December 26, 2024, those reporting requirements were once again halted by a federal court's (reinstated) nationwide injunction. As of this writing, confusion reigns over CTA announced is the latest.

1. Update.

Less than a month before the original January 1, 2025 reporting deadline for companies established in 2024 or earlier, the CTA – together with this deadline - was enjoined by the Federal District Court, Eastern District of Texas.<sup>2</sup> The U.S. Government promptly appealed and its enforcement agency, the Financial Crimes Enforcement Network<sup>3</sup> announced that the CTA and its deadline would not be enforced (albeit voluntary filings would still be accepted).

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<sup>1</sup>While accurate to the best of our knowledge, the discussion herein is for tutorial purposes only. It is not to be deemed a legal opinion or legal advice. Should you wish to discuss this disclaimer (or require legal assistance), please contact us at [wsapronov@wstelecomlaw.com](mailto:wsapronov@wstelecomlaw.com)

<sup>2</sup>*Texas Top Cop Shop, Inc., et al. v. Garland, et al.*, Case No. 4:24-cv-478 (E.D. Tex.) See Sapronov & Associates, P.C. Alert, December 13, 2024 “CTA Halted – At Least for Now”; [https://www.linkedin.com/posts/walt-sapronov-4909021\\_corporate-transparency-act-cta-halted-activity-7273710943199473664-3CL?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/walt-sapronov-4909021_corporate-transparency-act-cta-halted-activity-7273710943199473664-3CL?utm_source=share&utm_medium=member_desktop)

<sup>3</sup>Money laundering laws are enforced by the Financial Crimes Enforcement Network (FinCEN) (<https://www.fincen.gov/>).

Shortly thereafter, on December 23, 2024, a motions panel<sup>4</sup> of the Fifth Circuit Court of Appeals stayed the nationwide injunction.<sup>5</sup> FinCEN announced extended CTA reporting deadlines (until January 13, 2025) – but had not yet entered corresponding updates to its website.

But on December 26, now, a merits panel decision of the Fifth Circuit Court reversed the stay, thereby reinstating the nationwide injunction of the CTA and its reporting deadlines.<sup>6</sup> The FinCEN’s reporting deadlines are now stayed as well.

Meanwhile, the Fifth Circuit Court of Appeals has published an expedited briefing schedule for the appeal with oral argument scheduled for March 25, 2025. Regardless of who prevails, further appeals will likely follow. How long the nationwide injunction of the CTA and its reporting rules will last is thus uncertain.

## 2. Updated CTA Synopsis.

Here is an updated synopsis of the CTA and its (currently stayed) reporting obligations. The CTA’s legislative purpose is to combat money laundering, which comes in various forms but, essentially, all which disguise illegally obtained financial assets.<sup>7</sup> While most U.S. small businesses are law-abiding entities having nothing to do with money laundering, that does not matter for CTA purposes. Law abiding or not, absent an exemption, an estimated 33 million small businesses registered in the U.S. were ordered to comply with CTA reporting requirements or face serious consequences for failure to do so.

Briefly, here is what the CTA required prior to the nationwide injunction.

FinCEN’s published CTA Rules (<https://www.fincen.gov/boi>) require all small business entities (so-called “reporting companies”) to disclose their “beneficial owners”. A company “applicant “who makes the filing on behalf of the Reporting Company (*e.g.*, one of its officers or attorneys) is also required to disclose its ownership. The Beneficial Ownership Information is to

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<sup>4</sup> A motions panel of an appellate court is a group of its judges in an appellate court assigned to hear procedural matters. This contrasts with a merits panel (see below) that decides the substantive legal and factual issues of an appeal (“the merits”).

<sup>5</sup> See Sapronov & Associates, P.C. Alert, December 23, 2024 “CTA Update: The Fifth Circuit Decision that Stole Christmas”;[https://www.linkedin.com/posts/walt-sapronov-4909021\\_corporate-transparency-act-act-reinstated-activity-7277374123830378499-6BWN?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/walt-sapronov-4909021_corporate-transparency-act-act-reinstated-activity-7277374123830378499-6BWN?utm_source=share&utm_medium=member_desktop)

<sup>6</sup> Texas Top Cop Shop, Inc. v. Garland, No. 24-40792 (5th Cir. Dec. 26, 2024).[\CTA Injunction\5th Circuit Stay\Order Reversing Stay.pdf](#) (Merits panel decision vacating the Court’s prior order staying the District Court’s nationwide preliminary injunction of the CTA).

<sup>7</sup><https://www.fincen.gov/what-money-laundering#:~:text=Money%20laundering%20involves%20disguising%20financial.with%20an%20apparently%20equal%20source>

be stored in a government (BOI) database. **Failure to comply with the CTA reporting requirements can trigger significant civil penalties (\$500 per day up to \$10,000) and up to two years of imprisonment.** Unauthorized use or disclosure of BOI can trigger up to \$250,000 in fines and up to five years' imprisonment.

**Yet for now, these reporting rules, penalties and deadlines have been stayed (once again) pending further appeal.**

### 3. Issues to Consider if the CTA is Reinstated in the Future.

But for how long? While the reinstatement of the nationwide injunction gives affected companies some breathing room, prudence still suggests seeking legal counsel for guidance as to an appropriate future course of action depending on their circumstances, risk tolerance, and other applicable considerations. At a minimum, in an abundance of caution, they may wish to preserve their notes and records, as well as considering the following:

i) Is the company a “reporting company”. These are generally defined as a domestic or foreign corporate entity that is either created by or registered to do business, respectively, by filing a document with a secretary of state or similar office in the U.S.

ii) If so, does the company fall into one of 23 enumerated exemptions that include, *e.g.*, public utilities, securities issuers, tax exempt entities, and subsidiaries of certain exempt entities?

iii) If not, who are the “beneficial owners” of the company? These are generally defined as individuals who directly or indirectly exercise “substantial control” over the reporting company or who own or control at least 25% of its ownership interest. Among such beneficial owners are the company’s senior officers, important decision makers, and others exercising any other form of “substantial control”, an amorphous concept requiring further review of the CTA rules and their related FinCEN explanations.

iv) For more discussion of the CTA’s financial implications for banking and investment transactions, please visit us at <https://wstecomlaw.com/2024/01/corporate-transparency-act-cta-a-synopsis/>

### 4. But Confusion Still Reigns.

So as of this writing, FinCEN, states the following on its website:

#### **“Beneficial Ownership Information Reporting**

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. More information is available on our [website \[https://fincen.gov/\]](https://fincen.gov/),” (emphasis added)

Helpful - but since the Fifth Circuit has reinstated the injunction - with oral argument on its merits delayed until March, 2025, FinCEN’s prior deadlines are now moot. But what if the appellants (*i.e.*, the U.S. Government) wins on appeal? Or what happens following – or during - the likely further review by the U.S. Supreme Court or (speculatively), by the Republican controlled administration and Congress? What should Reporting Companies do? Will the penalties apply retroactively – and if so, by whom/how will they be assessed?

Who knows? Confusion reigns and it is a time of uncertainty. Even so, *Tempus Fugit* and this too will pass.

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For assistance with CTA compliance, please contact us at [wsapronov@wstelecomlaw.com](mailto:wsapronov@wstelecomlaw.com) or by text or phone at (770) 309-0462. Meanwhile, we take this opportunity wish you all Happy Holidays and a safe and Happy New Year. GOD BLESS AMERICA.