

## Beneficial Ownership Information Reporting Requirements Back in Effect, with Deadline Extensions

Just before Christmas, on December 23, 2024, the U.S. Court of Appeals for the Fifth Circuit granted a stay of the nationwide preliminary injunction blocking enforcement of the Corporate Transparency Act (“CTA”). The Fifth Circuit’s decision effectively reinstated all CTA filing deadlines for millions of companies created or registered in the United States to file beneficial ownership information reports (individually, a “BOIR,” and, collectively, “BOIRs”) with the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”), including the January 1, 2025 filing deadline for reporting companies that were created or registered before 2024.

FinCEN posted an alert on its website within hours and issued an update on Christmas Day announcing several short extensions, including delaying the filing deadline for pre-2024 reporting companies by 12 days to January 13, 2025.

### Background

The CTA took effect on January 1, 2024, and requires certain corporations, limited liability companies, limited partnerships, and other entities created or registered in the United States and not otherwise exempt from the CTA’s filing requirements to disclose information about their beneficial owners to FinCEN within specified filing deadlines.

For existing entities – those created or registered before January 1, 2024 – the CTA’s implementing rules set a filing deadline of January 1, 2025. Entities created or registered during calendar year 2024 are required to file within 90 days of the date of formation or registration, and entities created or registered on or after January 1, 2025, are required to file within 30 days of creation or registration.

In our last Client Alert, we reported that, earlier this month, the U.S. District Court for the Eastern District Court of Texas, Sherman Division, in the case of *Texas Top Cop Shop, Inc., et al. v. Garland, et al.*, No. 4:24-cv-00478 (E.D. Tex.), issued a nationwide preliminary injunction temporarily blocking enforcement of the CTA and its implementing regulations. The nationwide preliminary injunction suspended all BOIR filing deadlines for all reporting companies, including the January 1, 2025 deadline. The government appealed the nationwide preliminary injunction to the Fifth Circuit and argued, among other things, that it is an extraordinary remedy that should be stayed pending appeal.

### Fifth Circuit’s Decision

After ordering an expedited briefing schedule, which imposed stricter deadlines than those originally requested by the government, the Fifth Circuit granted the government’s emergency request for a stay and ordered that the government’s appeal be expedited to the next available oral argument panel. In doing so, the Fifth Circuit analyzed a multi-factor test for granting such stays, including whether the government would be irreparably injured absent a stay and whether the government made a strong showing that it is likely to succeed on the merits. In balancing the equities, the Fifth Circuit concluded that the government will likely suffer irreparable harm if it is enjoined from enforcing a statute “enacted by representatives of its people[.]” while businesses subject to the CTA will suffer minimal harm if required to file a BOIR. Perhaps more interesting, the Fifth Circuit concluded that the government “is likely to succeed on the merits in defending [the] CTA’s constitutionality” – a preview of how it might rule should the Eastern District of Texas ultimately conclude that the CTA is unconstitutional.

Business

# Alert

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## FinCEN Extends Filing Deadline for Certain Reporting Companies

Recognizing that reporting companies may need additional time to file their BOIRs given the recent developments in *Texas Top Cop Shop*, FinCEN announced in its alert soon after the Fifth Circuit's decision new deadlines to accommodate entities that may have relied on the injunction.

- Reporting companies that were created or registered prior to January 1, 2024, have until January 13, 2025, to file their initial BOIRs with FinCEN. These companies would otherwise have been required to report by January 1, 2025.
- Reporting companies created or registered in the United States on or after September 4, 2024, that had a filing deadline between December 3, 2024, and December 23, 2024, have until January 13, 2025 to file their initial BOIRs with FinCEN.
- Reporting companies created or registered in the United States on or after December 3, 2024, and on or before December 23, 2024, have an additional 21 days from their original filing deadline to file their initial BOIRs with FinCEN.
- Reporting companies that qualify for disaster relief may have extended deadlines that fall beyond January 13, 2025. These companies should abide by whichever deadline falls later.
- Reporting companies that are created or registered in the United States on or after January 1, 2025, have 30 days to file their initial BOIRs with FinCEN after receiving actual or public notice that their creation or registration is effective.
- The plaintiffs in *National Small Business United v. Yellen*, No. 5:22-cv-01448 (N.D. Ala.) – 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) – are not currently required to report their beneficial ownership information to FinCEN at this time.

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Reporting companies that have not yet filed their initial BOIRs are advised to immediately resume all CTA filing efforts and submit their BOIRs prior to the new deadlines.

The members of Hand Arendall Harrison Sale's CTA Team continue to monitor closely legal developments relating to the CTA, will provide relevant updates as they become available, and are available to assist with your CTA compliance questions. Please note that if you intend to engage us to assist with these matters, we encourage you to reach out as soon as possible so that we are able to provide you with timely advice, as we expect to be handling a high volume of requests now through the end of the new filing deadlines.