

U.S. Supreme Court Provisionally Reinstates the Corporate Transparency Act

Corporate News: A Legal Update

By Karen Tobin on January 23, 2025

The U.S. Supreme Court issued an order on January 23, 2025, which provisionally reinstates the Corporate Transparency Act (CTA) while a legal challenge to it continues. This brief order, which stayed an injunction against the CTA by the U.S. District Court for the Eastern District of Texas, did not provide any reasoning and is not final, but it allows the government to proceed with enforcement of the CTA, at least until the appeal of the district court's amended order has been decided by the U.S. Court of Appeals for the Fifth Circuit or possibly by the U.S. Supreme Court.

The CTA requires reporting companies to file a report disclosing their beneficial ownership information with the Financial Crimes Enforcement Network (FINCEN) of the U.S. Department of the Treasury, and it imposes severe penalties for noncompliance. The U.S. Supreme Court halted the *nationwide injunction by the Texas District Court that blocked enforcement of the CTA in the case of Texas Top Cop Shop v. Garland* on December 3, 2024.

We await the release of information from FINCEN as to whether, and to what extent, the deadlines for compliance with the CTA will be extended. FINCEN may provide reporting companies 30 days from the date the Supreme Court reinstated the CTA to comply with its reporting requirement.

The legal challenges to the CTA will continue to play out in the Fifth Circuit, with oral arguments set for March 25, 2025. At issue is whether the CTA is a valid exercise of Congress's constitutional authority over interstate commerce. Also at issue is how broadly the U.S. Constitution's Necessary and Proper Clause should be applied. The U. S. Department of Justice argued for a broad interpretation, noting that even if the CTA regulated an activity beyond the reach of the Interstate Commerce Clause, it is necessary and proper to Congress' authority to act on matters of national security, foreign affairs, gathering intelligence, and preventing terrorism. However the district court in Texas construed the Necessary and Proper Clause narrowly, ruling that the CTA was not a necessary and proper use of Congress' foreign affairs powers and that the government had not identified any foreign affairs power that shared a nexus with the CTA. Opponents to the CTA note that the it intrudes on the traditional prerogative of states to regulate corporations and other businesses and that it is a threat to

individual privacy.

Time will tell how these issues will play out in future judicial appeals. However, for now, reporting companies are once again required to comply with the CTA.

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