

Treasury Says It Won't Enforce Corporate Transparency Act Against U.S. Companies or Citizens

SEPARATELY, A U.S. DISTRICT COURT RULED THE CTA UNCONSTITUTIONAL ON FOURTH AMENDMENT GROUNDS.

March 4, 2025

Treasury / FinCEN - Interim Final Rule and Proposed Rulemaking

On March 2, 2025, the U.S. Department of the Treasury issued a press release stating that it will not enforce any penalties or fines against U.S. citizens or domestic reporting companies under the Corporate Transparency Act (CTA).

The release follows an announcement last week (February 27, 2025), by the Financial Crimes Enforcement Network (FinCEN) that it would suspend enforcement actions, including the assessment of penalties or fines, against companies that fail to file beneficial ownership interest (BOI) reports by the new reporting deadline (which FinCEN had recently extended to March 21, 2025). Instead of officially revoking the March 21 deadline, FinCEN also indicated that it would soon be issuing an interim final rule with a new filing deadline.

However, the Treasury Department's weekend announcement indicated that the CTA would not be enforced against domestic companies or U.S. citizens, even after the interim final rule goes into effect, and that Treasury will be issuing a proposed rulemaking to narrow the scope of the CTA, such that the BOI reporting requirements would apply solely to foreign reporting companies.

If such a rule is implemented, it would essentially rewrite the CTA, which defines a reporting company as any "corporation, limited liability company, or other similar entity that is ... created by the filing

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of a document with a secretary of state or a similar office under the law of a State or Indian Tribe[.]” Such a move could leave domestic reporting companies with a difficult choice: (1) file voluntary BOI reports in compliance with the statute’s requirements, or (2) refrain from filing BOI reports, thereby risking future liability should enforcement priorities change.

USDC Injunction for CTA Reporting as “Unreasonable Search” Under Fourth Amendment

As if that wasn’t enough drama in the ongoing CTA saga, on March 3, 2025, the U.S. District Court for the Western District of Michigan issued an injunction suspending the enforcement of the CTA for the plaintiffs in that case on the grounds that the CTA’s BOI reporting requirements constitute an “unreasonable search” prohibited by the Fourth Amendment. The court referenced the totalitarian “Big Brother” from George Orwell’s novel 1984, writing that the CTA “compels citizens to disclose private information they are not required to disclose anywhere else just so the government can sit on a massive database to satisfy future law enforcement requests.”

While there have been several constitutional challenges to the CTA, this is the first decision concluding that the CTA is unconstitutional on Fourth Amendment grounds. Indeed, other legal challenges have focused on the Article I “enumerated powers” clause or the Fifth Amendment due process clause. The Michigan court’s decision is appealable to the Sixth Circuit, although the likelihood of an appeal is uncertain given the Trump Administration’s recent position on the CTA.

Wiley’s White Collar Defense & Government Investigations and Corporate practices have unparalleled capabilities and experience in helping clients navigate increasingly complex regulatory landscapes, including corporate governance and transactional matters, and compliance with federal and state requirements. For more information about the CTA, please contact one of the authors listed on this alert.