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Federal Court's Finding that Corporate Transparency Act Is Unconstitutional Has Limited Effect

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The Corporate Transparency Act ("CTA") requires non-exempt companies throughout the U.S. to file reports identifying their beneficial owners. On March 1, 2024, the U.S. District Court for the Northern District of Alabama declared the CTA unconstitutional because it exceeds the authority granted to Congress in the U.S. Constitution.[1] The court also permanently enjoined all employees and agencies acting on behalf of the U.S. from enforcing the CTA against the Plaintiffs.[2]

Many sources around the country have announced that this means that companies can set aside their efforts to comply with the CTA. Those sources may not realize that the injunction precludes enforcement only "against the Plaintiffs." In other words, the injunction applies only to the parties identified in the suit. In response, the Treasury Department stated, "[T]he government 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). Those individuals and entities are not required to report beneficial ownership information to FinCEN at this time."

Moreover, we expect the court's ruling to be appealed. We do not yet know whether the injunction will be stayed during an appeal. The district court could issue a stay pending appeal, or the Court of Appeals could suspend the injunction pending appeal if the district court does not.

Until there is more clarity as to how this litigation will ultimately play out, persons that the CTA requires to file in the near future should most likely continue to prepare to make that filing.

In our April 2023 Client Alert, we detailed the broad applicability of the CTA – a federal law enacted to enhance corporate transparency by requiring certain companies to disclose beneficial ownership information to the Financial Crimes Enforcement Network (FinCEN***).*** It aims to combat money laundering, terrorist financing, and other illicit financial activities by facilitating greater transparency regarding the individuals who ultimately own or control

companies operating in the United States and will require the vast majority of domestic business entities to report information about their beneficial owners to FinCEN. The requirement for newly formed companies to report under the CTA became effective on January 1, 2024.

[1] *Nat'l Small Bus. United v. Yellen*, No. 5:22-cv-01448-LCB (N.D. Ala. 2022).

[2] Final Judgement, 2, March 1, 2024 (*Nat'l Small Bus. United v. Yellen*).

Additional Information

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