

CORPORATE TRANSPARENCY ACT INJUNCTION ALERT

On December 3, 2024, the U.S. District Court for the Eastern District of Texas granted a preliminary, nationwide injunction enjoining the United States federal government from enforcing the Corporate Transparency Act (“CTA”), which includes the reporting of beneficial ownership information (“BOI Report”) to the U.S. Federal Crimes Enforcement Network (“FinCEN”). The court’s reasoning revolved around the constitutionality of the CTA. The immediate impact is that companies are, at least temporarily, no longer required to file a BOI Report with FinCEN. Prior to this temporary injunction, the deadline for companies subject to the CTA filing requirements that formed prior to January 1, 2024 to file a BOI Report with FinCEN was January 1, 2025 (companies subject to the CTA filing requirements that were formed in 2024 previously had to file a BOI Report with FinCEN within 90 days of their formation, and companies subject to the CTA filing requirements that are formed on or after January 1, 2025 would have been required to file a BOI Report within 30 days of their formation).

Although the current injunction is nationwide (meaning all companies subject to the CTA filing requirements no longer have to file a BOI Report), because of the nature of the temporary injunction, it is entirely possible that the United States government may choose to appeal the preliminary injunction to the U.S. Court of Appeals for the Fifth Circuit, or potentially to the United States Supreme Court. If an emergency appeal is filed and heard, it is possible that the injunction will be removed and that all companies subject to the CTA filing requirements will again be required to report with no guarantee of any extension of the applicable deadlines. Additionally, it is also possible that an appeals court could remove the nationwide injunction and only leave it applicable to the specific plaintiffs, similar to the March 2024 ruling issued by the U.S. District Court for the Northern District of Alabama in *NSBA v Yellen*, which enjoined the government from enforcing the CTA against only the specific plaintiffs in that case. Furthermore, as of this writing, FinCEN has not issued a formal response regarding the injunction, which may provide further detail for reporting deadlines or other additional guidance, although FinCEN is currently still accepting BOI Reports. The rapidly approaching deadline coupled with the uncertainty as to whether the government will appeal or not (and if an appeal is made, what the ultimate ruling will be) puts companies in a difficult position to choose between (1) complying with the CTA and filing a BOI Report by the applicable deadline regardless of the injunction, or (2) waiting until a final determination is made and

possibly rushing to file by year end. Please note that if you choose to not file a BOI Report for a company required to comply with the CTA and the injunction is lifted, depending on the timing, we may not be able to file your BOI Report by the new deadline unless the deadline is extended.

O'Neil Cannon will continue to monitor for additional developments. For additional information or questions related to the CTA, please reach out to a member of the O'Neil Cannon team.