

It Lives: Trump Administration Defends Corporate Transparency Act; May Modify its Application

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On February 5, 2025, the Trump administration added a new chapter to the saga that has been implementation of the Corporate Transparency Act (CTA), filing a notice of appeal and motion for stay against an Eastern District of Texas injunction in *Smith v. United States Department of the Treasury* on enforcement of the CTA's filing deadline.

In its filing, the Treasury Department stated that it would extend the filing deadline for 30 days if the stay is granted, and would use those 30 days to determine if lower-risk categories of entities should be excluded from the reach of the filing requirements. In light of the Supreme Court's stay of the injunction in *Texas Top Cop Shop, Inc., et al. v. Merrick Garland, et al.*, also from the Eastern District of Texas, it is likely that stay will be granted.

Passed in the first Trump administration but implemented during the Biden presidency, the CTA – an anti-money laundering law designed to combat terrorist financing, seize proceeds of drug trafficking, and root out illicit assets of sanctioned parties and foreign criminals in the United States – has faced legal challenges around the country.

The constitutionality of the CTA was challenged in several cases, with most courts upholding the law, but some issuing either preliminary injunctions or determining that the law is unconstitutional. In addition to the appeals of *Texas Top Cop Shop* and *Smith*, both before the Fifth Circuit, appeals are currently pending in the Fourth, Ninth, and Eleventh Circuits.

Although enforcement of the CTA deadline is currently paused, the granting of a stay in *Smith*, or a ruling by one of the circuits, could reinstate the deadline at any time, triggering the start of the 30-day clock to file. Entities may file now notwithstanding the injunction if they choose to do so, and entities may wish to complete the filing so that they do not need to monitor the situation and to avoid high traffic to the filing website in the event a deadline is reimposed.

Please note that if you file or have already filed and the law is ultimately found unconstitutional or otherwise overturned or rescinded, you will not be under any continuing obligation regarding that filing.

Entities can, of course, choose not to file or to keep filings updated. However, be aware that in

addition to the potential need to file on short notice should the preliminary injunction be limited, stayed, or overturned, financial institutions may inquire as to whether the entity has filed a CTA and could require filing as part of the financial institution's anti-money laundering program.

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