

Important Update – Corporate Transparency Act Filing Obligations Reinstated and Mandatory

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CTA filings are obligatory again. Most reporting companies have until March 21, 2025 to complete their filings. If you adopted a wait-and-see posture in regard to making your CTA BOIR filings, the wait is unfortunately over.

Since December 2024, the CTA has been subject to nationwide injunctions (which have prohibited FinCEN's enforcement of the CTA's filing deadlines). Such deadlines are divided into two primary parts: the filing deadline for (i) reporting companies that were in existence prior to 1/1/2024 ("**Pre-'24 Companies**") and (ii) reporting companies formed on or after 1/1/2024 ("**New Companies**").

Because the last of the injunctions (in *Smith v Treasury* in the 5th Circuit) has now been put on hold, FinCEN may immediately begin enforcing the CTA filing deadlines again, including for Pre-'24 Companies.

In response to the *Smith v Treasury* ruling, FinCEN announced on February 19, 2025 the following:

With the February 18, 2025, decision by the U.S. District Court for the Eastern District of Texas in *Smith, et al. v. U.S. Department of the Treasury, et al.*, 6:24-cv-00336 (E.D. Tex.), beneficial ownership information (BOI) reporting requirements under the Corporate Transparency Act (CTA) are once again back in effect. However, because the Department of the Treasury (Treasury) recognizes that reporting companies may need additional time to comply with their BOI reporting obligations, FinCEN is generally extending the deadline 30 calendar days from February 19, 2025, for most companies.

Notably, in keeping with Treasury's commitment to reducing regulatory burden on businesses, during

this 30-day period FinCEN will assess its options to further modify deadlines, while prioritizing reporting for those entities that pose the most significant national security risks.

FinCEN also intends to initiate a process this year to revise the BOI reporting rule to reduce burden for lower-risk entities, including many U.S. small businesses.

FinCEN then stated specifically with regard to the current CTA reporting deadlines:

For the vast majority of reporting companies, the new deadline to file an initial, updated and/ or corrected BOI report is now March 21, 2025. FinCEN will provide an update before then of any further modification of this deadline, recognizing that reporting companies may need additional time to comply with their BOI reporting obligations once this update is provided.

Reporting companies that were previously given a reporting deadline later than the March 21, 2025 deadline must file their initial BOI report by that later deadline. For example, if a company's reporting deadline is in April 2025 because it qualifies for certain disaster relief extensions, it should follow the April deadline, not the March deadline.

As indicated in the alert titled "Notice Regarding National Small Business United v. Yellen, No. 5:22-cv-01448 (N.D. Ala.)", Plaintiffs in National Small Business United v. Yellen, No. 5:22-cv01448 (N.D. Ala.)—namely, 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)—are not currently required to report their beneficial ownership information to FinCEN at this time.

As a result:

- All Pre-'24 Companies (entities formed prior to 1/1/2024) are required to complete their initial filing by March 21, 2025. Note that the Pre-'24 Companies originally had a 1/1/2025 filing deadline, prior to the court actions.
- All New Companies (entities formed on or after 1/1/2024) are required to complete their initial filing by March 21, 2025.

Additional Information:

Courts: While there are ongoing court proceedings that could impact the CTA in the future, there are no currently applicable injunctions (and no additional court rulings are anticipated that would alter the deadlines above). The injunctions that were recently effective were *preliminary* injunctions (i.e., they were issued before the courts had ruled on the merits of the cases) and courts, including the U.S. Supreme Court, have indicated that a preliminary injunction is not appropriate in this case. Courts have split as to whether or not they find the CTA to be "constitutional" (or, whether they *presume* the CTA to be "constitutional" in cases where a finding has not yet been made). To date, multiple courts in the 1st Circuit, 4th Circuit and 9th Circuit have issued rulings favorable to the CTA and its constitutionality, and multiple courts in the 5th Circuit and 11th Circuit have issued rulings against the constitutionality of the CTA.

Administration: While the new Administration has not made public statements regarding its intention for the CTA, and it could always change its tact, it has thus far supported the CTA in CTA related cases through recent court filings and the above FinCEN pronouncement.

Congress: The U.S. House of Representatives, on February 11, 2025, by a vote of 408 – 0, approved a bill to extend the BOIR filing deadline for only Pre-‘24 Companies to January 1, 2026. This bill has not been passed by the Senate, and, as drafted, would only delay a portion of the filings due under the CTA, and would not impact the filing obligations of New Companies.

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