

Part 4: Addressing and Demystifying Common Denials Surrounding the Upcoming CTA

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CTA Denial #4: “*That can’t be constitutional.*”

A lone small business advocacy group, National Small Business United (affiliated with the National Small Business Association), has filed suit against the U.S. Department of Treasury and FinCEN contesting the constitutionality of Congress’s actions in passing the CTA into law, as well as the CTA’s implementation by FinCEN. Three other advocacy groups (Transparency International U.S., Financial Accountability & Corporate Transparency Coalition, and Main Street Alliance) jointly authored an amicus brief in support of the government’s position and the CTA. This case remains in an early stage of pleadings.^[1] Pending the outcome of this case, which will be after the January 1, 2024, CTA implementation date, the constitutionality of the CTA will likely be affirmed or better defined.

Conclusion

The Corporate Transparency Act is a new beneficial owner reporting requirement in the United States. Beginning January 1, 2024, tens of millions of U.S. business entities, and their beneficial owners, will become subject to FinCEN’s new requirements which were originally designed to catch “bad” actors choosing to hide behind the “corporate veil.” Whether you like it, hate it, or are indifferent, the CTA is here to stay. Compliance is both mandatory and advisable. Now is the time to discuss this with your legal team for guidance.

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