

Publications

January 24, 2025 • Updates

UPDATE: CTA Filings Remain Voluntary After Supreme Court Ruling (For the Moment)

On January 23, 2025, the Supreme Court of the United States acted to lift one of the effective nationwide injunctions on enforcement of the Corporate Transparency Act (CTA) in the *Texas Top Cop Shop v. McHenry* [originally Garland] case. That case was put into place by a federal district court in the Eastern District of Texas on December 3, 2024 and was subsequently appealed to the Fifth Circuit Court of Appeals, and then an application was made to the Supreme Court to stay the injunction.

A second court, *Smith v. Treasury* (also in the Eastern District of Texas), issued an order on January 7, 2025, after the *Texas Top Cop Shop v. McHenry* case was before the Supreme Court. The judge in *Smith v. Treasury* issued his own nationwide injunction of the CTA, on substantially similar facts and arguments as those found in *Texas Top Cop Shop v. McHenry*. This injunction remains in place for the moment.

FinCEN, in response to the Supreme Court ruling, issued a press release on January 24, 2025, indicating that its position is that reporting companies are not currently required to file beneficial ownership information reports with FinCEN and are not subject to liability if they fail to file this information, “*while the Smith order remains in force.*”

In accordance with FinCEN’s latest guidance, reporting companies may continue to voluntarily submit BOIR filings with FinCEN. Parties should remain prepared to file when and if the CTA filing obligations are reinstated in full. We will continue to follow developments and provide updates (please subscribe here).

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