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Update Memo: The CTA Has Been Suspended Again

The Corporate Transparency Act ("CTA") has been suspended again by an order of the Fifth Circuit Court of Appeals.

As previously reported, on December 3 a District Court in Texas entered a nationwide order declaring that the CTA is unconstitutional and cannot be enforced. The U.S. Department of Justice ("DOJ") appealed to the Fifth Circuit Court of Appeals. DOJ filed a motion seeking a stay on appeal, which was routed to a panel of three judges handling motions. On December 23, the motions panel ordered an expedited process for deciding the appeal, and also ordered a stay of the injunction.

A different three-judge panel was assigned to decide the case on the merits, and the merits panel promptly took charge. On Thursday evening, December 26, acting "to preserve the constitutional status quo while the merits panel considers the parties' weighty substantive arguments," it entered an order reinstating the lower court's injunction against enforcement of the CTA.

As a result, the CTA is not in force now and CTA submissions are not required at this time.

FinCEN posted a notice on December 27 confirming the order of the Fifth Circuit. FinCEN wrote in part as follows:

In light of a recent federal court order, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force. However, reporting companies may continue to voluntarily submit beneficial ownership information reports.

The Fifth Circuit panel scheduled oral arguments for March 25, 2025. The twists and turns in this case have been surprising, so we recommend watching the news to see whether there may be any further developments.

Please reach out to your regular contact at Choate if you have questions.

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