



# delaware banker

Spring 2025  
Vol. 21 No. 2

**Delaware  
Strengthens  
Its Corporate  
Law Advantage**

**Plus: Special  
Tribute Section  
to Sarah Long!**



Delaware Bankers Association

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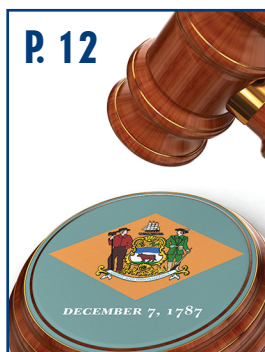
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## CTA Interim Final Rule: An End to the Whiplash?



**Kenneth L. Norton**  
Young Conaway Stargatt & Taylor, LLP

*"The public should monitor FinCEN guidance to ensure compliance with the CTA's reporting requirements regardless of its current status."*

The Corporate Transparency Act (the "CTA")—a federal law that requires reporting of information regarding each "beneficial owner" of a "reporting company" to the Financial Crimes Enforcement Network ("FinCEN")—has effectively been limited to only foreign persons by an interim final rule issued by FinCEN on March 21, 2025 (the "Revised Rule"). For now, the Revised Rule is cause for a sigh of relief for most owners of, and practitioners involved with, entities formed under U.S. law. The significance of the Revised Rule is best appreciated in the context of the prior vacillations of FinCEN and the courts regarding the CTA.

After the enactment of the CTA in 2021, the public waited intently for FinCEN to provide clarity regarding deadlines and reporting exemptions, which the CTA itself provides are to be determined by regulation. In 2022, FinCEN issued an initial final rule (the "Initial Rule"), which set reporting and enforcement deadlines but did not limit the impact of the CTA on previously unregulated entities through exemptions. Under the Initial Rule, CTA reporting and enforcement were set to begin no later than January 1, 2025, and the terms "beneficial owner" and "reporting company" were defined so as to require reporting by virtually any entity of the direct and indirect owners of the entity and the individuals who filed or directed the filing of the document forming such entity.

On December 3, 2024, a U.S. District Court enjoined the enforcement of the CTA under the Initial Rule nationwide, and as a result, FinCEN suspended all enforcement and reporting deadlines. The government appealed, and on December 23, 2024, a motions panel of a U.S. Court of Appeals stayed the District Court injunction, rendering the CTA under the Initial Rule enforceable. FinCEN then reinstated enforcement, only to have a merits panel of the same court lift the stay and reinstate the injunction on December 26, 2024, rendering the CTA under the Initial Rule unenforceable once again. FinCEN again suspended enforcement, and the government appealed to the U.S. Supreme Court, which ultimately ruled in favor of the government, granting a stay of

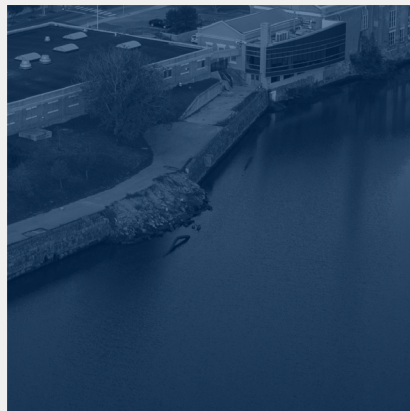
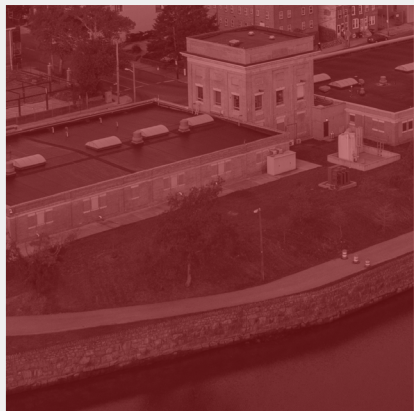
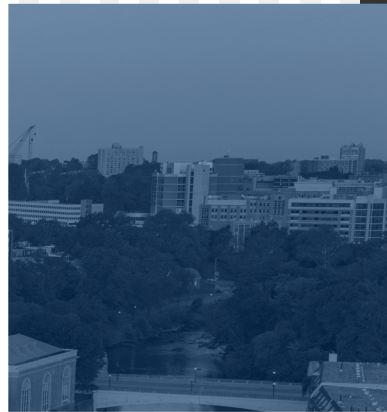
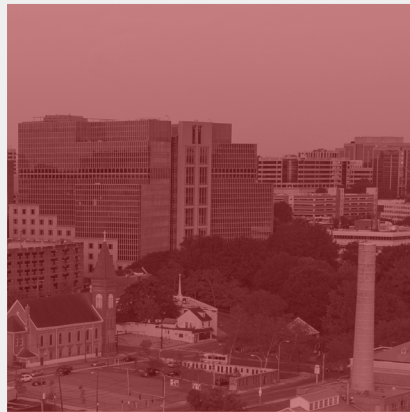
the injunction and rendering the CTA under the Initial Rule enforceable yet again. Meanwhile, FinCEN issued guidance postponing the reporting and enforcement deadlines for most reporting companies to March 21, 2025. But, on March 2, 2025, FinCEN pivoted again by issuing superseding guidance that indefinitely suspended all enforcement of the CTA under the Initial Rule and its deadlines, while promising to issue a revised rule to narrow the scope of the CTA to foreign beneficial owners and reporting companies only. Accordingly, the Revised Rule was issued on March 21, 2025.

Under the Revised Rule, which is effective immediately but subject to a 60-day comment period before it becomes final, "reporting company" is defined to include only entities formed under foreign law that do business in the U.S. Entities formed in a domestic jurisdiction are therefore exempt from reporting. Likewise, the Revised Rule exempts from reporting all ownership information of any beneficial owner who is, or to the extent that it is directly or indirectly owned by, a U.S. citizen. The impact of the Revised Rule is to exclude from the CTA's reporting requirements any domestic entity, its direct and indirect owners, and the individuals who filed or directed the filing of the documents forming such entity. In addition, direct or indirect ownership of foreign entities will not subject U.S. citizens to the reporting requirements, the only reporting possibly required by U.S. citizens with respect to foreign entities being for individuals who filed or directed the filing of documents forming foreign entities doing business in the U.S. Put simply, the Revised Rule renders the CTA inapplicable to all domestically formed companies and virtually all U.S. citizens.

Although the Revised Rule makes the CTA inapplicable to most, its application to foreign owners of foreign entities doing business in the U.S., and to U.S. citizens who form foreign entities, has yet to be fully reviewed by the courts. In addition, the scope of the CTA may be expanded again by future regulations. Thus, the public should monitor FinCEN guidance to ensure compliance with the CTA's reporting requirements regardless of its current status.



*Congratulations  
on your retirement,*  
**Sarah A. Long**



***Your hard work and dedication to the  
Delaware Bankers Association have  
left a lasting impact. Enjoy this  
exciting new chapter of your life!***

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