

Judge's Ruling Sets Back Law Meant to Fight Money Laundering

An Alabama judge barred the government from collecting certain company ownership data to help the Treasury Department identify money launderers, and called the effort a case of congressional overreach.



By Kate Kelly

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In a blow to government efforts to combat money laundering, a federal court has ruled that the Treasury Department cannot require some small businesses to report personal details about their owners.

Under a section of a 2020 law that took effect Jan. 1, small businesses must share details about their so-called beneficial owners, individuals who hold financial stakes in a company or have significant power over their business decisions. The law, the Corporate Transparency Act, passed with bipartisan support in Congress and was intended to help the Treasury Department's financial-crimes division identify money launderers who hide behind shell corporations.

But in a ruling issued late Friday, Judge Liles C. Burke of the U.S. District Court in Huntsville, Ala., sided with critics of the law. They argue that asking a company's owners to present personal data — names, addresses and copies of their identification documents — was a case of congressional overreach, however well intended.

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“Congress sometimes enacts smart laws that violate the Constitution,” Judge Liles wrote in a 53-page filing. “This case, which concerns the constitutionality of the Corporate Transparency Act, illustrates that principle.”

Judge Liles’s ruling prevented the department from enforcing the ownership reporting requirements on the plaintiff in the Alabama case, the National Small Business Association, a nonprofit trade group that represents more than 65,000 member companies.

Lawyers who have followed the Alabama case said over the weekend that they expected the government to quickly request that the injunction be paused, either by Judge Liles or the 11th Circuit Court of Appeals in Atlanta, or both. The Justice Department will almost certainly appeal the Alabama case to the circuit court, the lawyers said.

Morgan Finkelstein, a Treasury Department spokeswoman, said her agency was “complying with the court’s injunction.” She referred further questions to the Justice Department, which declined to comment.

As lawyers and transparency experts pored over Judge Liles’s opinion, the immediate impact of the ruling for the universe of small businesses in the United States, which the government estimates at 33 million, was not entirely clear.

Companies were given a year to comply with the reporting requirements as they pertained to the year 2023, so the data is not even due until the end of 2024. And Judge Liles’s ruling, read narrowly, does not apply to small businesses that are not members of the trade organization that brought the Alabama suit, meaning that most of the companies affected by the mandate must still comply.

“This has only made it more complicated for a lot of my clients,” said Angela I. Gamalski, who advises large and small corporations on compliance and regulatory matters at the law firm Honigman LLP in Ann Arbor, Mich. Ms. Gamalski said she planned to wait until the summer to dig into the reporting requirements and what they meant for her clients, given that the filing deadline is not until December and the enforcement of the law seemed to be in flux.

Proponents for greater transparency decried the ruling.

“This is an aberrant decision issued by a lone district judge in Alabama, based on an extraordinarily narrow view of Congress’s constitutional powers that is unsupported by precedent,” said Senator Sheldon Whitehouse, the Rhode Island Democrat who is one of the law’s supporters. “I would urge the government to appeal quickly to correct the erroneous decision and ensure the law’s transparency requirements can be fully and uniformly implemented.”

Kate Kelly covers money, policy and influence for The Times. More about Kate Kelly