

# Ruling Re-Opens U.S. to Corrupt and Criminal Cash

*District Court Ruling Will Delay Full Implementation of the Corporate Transparency Act, a Landmark Anti-Money Law*

A statement from Transparency International U.S.  
March 3, 2024

*Washington, D.C.*—On Friday, March 1st, 2024, Judge Liles C. Burke of the U.S. District Court for the Northern District of Alabama issued a decision granting a motion for summary judgment for the National Small Business Association in its lawsuit against the U.S. Department of the Treasury (“Treasury”), declaring that the Corporate Transparency Act (“CTA”) is unconstitutional and enjoining Treasury from enforcing the law. Judge Burke concluded that the CTA “exceeds the Constitution’s limits on the legislative branch” and “lacks a sufficient nexus to any enumerated power,” including Congress’s powers to oversee foreign affairs and national security, regulate commerce, or impose taxes.

The CTA was passed in 2021 with strong bipartisan support as part of the annual defense spending bill. It requires many U.S. companies to report basic identifying information (e.g., name and address) for the people who own or control the entity (aka, an entity’s “beneficial owners”) to Treasury’s Financial Crimes Enforcement Network (“FinCEN”). Prior to the adoption and implementation of the CTA, criminals around the world, including corrupt foreign officials, were able to use anonymously owned companies to launder the proceeds of their crimes into the United States.

Scott Greytak, Director of Advocacy for Transparency International U.S. (“TI US”), issued the following statement regarding Judge Burke’s decision:

The Corporate Transparency Act is a rare example of a simple but effective bipartisan effort to prevent terrorist networks, drug cartels, corrupt foreign officials, illegal arms dealers, human rights abusers, sanctions evaders, organized criminal enterprises, human trafficking operations, and other criminals from gaining access to the U.S. financial system in order to launder the proceeds of their crimes.

Despite the extensive and undeniable record of anonymously owned companies being used to endanger U.S. national security—from sanctions evasions to illegal arms trafficking to the theft of crucial U.S. technologies—Judge Burke fails to recognize these national security interests, which provide a straightforward

constitutional basis for the CTA. Instead, Judge Burke’s opinion imagines a world in which international money laundering simply doesn’t exist.

Importantly, Judge Burke could have issued a narrower decision that upheld the CTA with regard to companies that engage in interstate or foreign commerce—no doubt 99.9% of the tens of millions of companies subject to the law. Instead, Judge Burke imagines, without naming, the possibility of a company that does not do so to reach his conclusions. No American would recognize the pre-internet, pre-globalization world that Judge Burke inhabits.

With wars raging in multiple regions of the world and a fentanyl crisis destroying lives across America, this decision will only embolden America’s adversaries abroad and undermine efforts to protect our communities here at home.

We expect this ruling to be promptly appealed to, and overturned by, the 11<sup>th</sup> Circuit Court of Appeals, and in the meantime urge FinCEN to continue implementing the CTA as much as it can in accordance with Judge Burke’s opinion.

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TI US is part of the world’s largest coalition against corruption. In collaboration with national chapters in more than 100 countries, we are leading the fight to turn our vision of a world free from corruption into reality.

### **Related Resources**

- [Read](#) Judge Burke’s decision;
- [Read](#) an amicus brief filed by TI US and allies urging the District Court to uphold the CTA;
- [Read](#) a TI US factsheet on how anonymous companies undermine U.S. national security.

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