



U.S. Department of Justice
Civil Division

VIA CM/ECF

September 25, 2024

David J. Smith, Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth St. NW
Atlanta, GA 30303

RE: *NSBU v. U.S. Department of the Treasury* (No. 24-10736) (oral argument scheduled for September 27, 2024)

Dear Mr. Smith:

We write in response to plaintiffs-appellees' letters regarding the district court's opinion in *Firestone v. Yellen*, No. 24-1034 (D. Or.), and a FinCEN guidance document. Both documents support the government's position here. In *Firestone*, the court determined that enumerated powers and Fourth Amendment challenges to the Corporate Transparency Act were unlikely to succeed on the merits. *See* Op. 11-21. The court explained that "the CTA is within Congress' power to regulate interstate and foreign commerce," and that the statute "falls within the category of reasonable reporting requirements that courts have long understood" as consistent with the Fourth Amendment. Op. 14, 18.

Plaintiffs' reliance on a FinCEN guidance document similarly underscores the errors in their argument. In relevant part, the document states that a reporting company that incorporates but dissolves a short time later must report its ownership. *See* FinCEN, *Beneficial Ownership Information: Frequently Asked Questions*, <https://perma.cc/SWB5-6M7Y>. A contrary approach would undercut the government's anti-money laundering efforts by allowing a business to incorporate, engage in anonymous transactions, and then dissolve without ever disclosing its owners. Plaintiffs appear to assume that the relevant businesses refrain from all economic activity, but they neither explain why that approach would be common nor identify any business that has followed it. Plaintiffs thus continue to focus on unusual hypotheticals while ignoring that the vast majority of covered entities (including the businesses owned and represented by plaintiffs themselves) engage in commercial

activity. As the government previously explained, *see* Opening Br. 31; Supp. Br. 1-9, plaintiffs therefore come nowhere near establishing “that no set of circumstances exists under which the [CTA] would be valid”—as would be required to justify their facial attack on an Act of Congress. *Moody v. NetChoice, LLC*, 144 S. Ct. 2383, 2397 (2024).

Sincerely,

/s/ Steven H. Hazel

Steven H. Hazel

Attorney

cc: all counsel (Certificate of service attached)

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2024, I electronically filed the foregoing with the Clerk of the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system. Service will be accomplished by the appellate CM/ECF system.

/s/ Steven H. Hazel

STEVEN H. HAZEL