

Now & Next

Corporate & Finance Alert

March 7, 2025

New York LLC Transparency Act

By Denise A. Pursley

Enforcement of the federal Corporate Transparency Act may be suspended for now and its scope appears poised to become limited to foreign entities, but the NY LLC Transparency Act is very much in effect. Here's what businesses operating in New York need to know about the NY LLC Transparency Act.



What's the impact?

- LLCs formed or authorized to do business in New York must prepare to follow the New York LLC Transparency Act, even though the future of the federal Corporate Transparency Act, on which it is modelled, is uncertain.
- New York's LLC Transparency Act has its own distinct scope and definitions, reporting requirements, and privacy obligations.

The United States Department of the Treasury announced on March 2, 2025, that, with respect to the Federal Corporate Transparency Act (CTA), not only will it not enforce any penalties or fines for failure to file or update the beneficial ownership information (BOI) by the current deadline of March 21, 2025, as previously reported, but further, it will issue rules exempting US citizens,

domestic reporting companies, and their beneficial owners, narrowing the scope of the rule to foreign reporting companies only.

The New York LLC Transparency Act (NYTA), which was modeled after the CTA, however, is not subject to any such suspensions and is scheduled to take effect on January 1, 2026. Limited liability companies (LLCs) formed or authorized to do business in New York must still comply with NYTA. While recent attention has focused on the CTA, it is timely to revisit the NYTA and understand the key differences between the two laws and some key considerations for compliance.

Scope and definitions

One key difference between the NYTA and the CTA is that the NYTA applies only to LLCs, while the CTA currently applies to domestic and foreign corporations, LLCs, and other entities formed or registered to do business in the United States. All LLCs formed in New York (domestic LLCs) or authorized to do business in New York (foreign LLCs), unless exempt, must file a BOI with the New York Department of State (NYDOS). Thus, even foreign LLCs, such as an LLC formed in Delaware, are required to file a BOI with the NYDOS if it is authorized to do business in New York.

The NYTA incorporates by reference certain definitions defined under the CTA, as the same may be amended, and any regulations promulgated thereunder, but only to the extent such definitions relate to LLCs formed or authorized to do business in New York. The US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued a final rule implementing the CTA's BOI reporting provisions (Final Reporting Rule) and, therefore, attention must be paid to the Final Reporting Rule and any future amendments to the CTA or additional rules. Importantly, the NYTA incorporates by reference the definition of a "beneficial owner" as set forth in the CTA. The CTA defines beneficial owner as any natural person who, directly or indirectly, either through any contract, arrangement, understanding, relationship, or otherwise exercises substantial control over the reporting company or owns or controls 25% or more of the ownership interests of the reporting company. The Final Reporting Rule issued by FinCen provides guidance and examples of what constitutes substantial control.

The NYTA also incorporates by reference the 23 categories of exemptions identified under the CTA that meet the conditions contained therein, including certain types of entities already subject to adequate disclosure or regulation, such as publicly traded companies, investment companies, banks, insurance companies, tax-exempt entities, and government entities. Unlike the CTA, however, LLCs claiming an exemption under the NYTA must electronically file, under penalty of perjury, an attestation of exemption on a form designated by the NYDOS, which includes the specific exemption claimed and the facts on which such exemption is based. Any company filing an exemption is subject to the same annual statement filing required of non-exempt reporting companies in New York.

Reporting requirements

Another key distinction is that the NYTA has an annual reporting requirement, as opposed to the CTA's one-time reporting obligation (unless updates or changes are required). LLCs formed or authorized to do business in New York prior to January 1, 2026, have until December 31, 2026, to comply. LLCs formed or authorized to do business in New York on or after January 1, 2026, must file their BOI within 30 days of submitting their articles of organization to form a domestic LLC in New York or within 30 days of filing their application for authority to do business in New York. The NYTA requires LLCs to confirm or update the report annually. The BOI report must include the full legal name, current home or business address (as opposed to the CTA, which requires a residential address), date of birth, and identification number (such as a passport or driver's license number) of each beneficial owner, as well as a description of the nature and extent of their ownership or control.

Penalties

An LLC that fails to file its initial BOI, attestation of exemption, or annual statement when due will be shown in the NYDOS records as past due (if the failure to file exceeds 30 days) or delinquent (if the failure to file exceeds two years). The NYDOS may assess a fine of up to \$500 per day for failure to file or update the report, and the LLC is deemed suspended and cannot conduct business in New York until such filing is made, a fine is paid, and the New York Attorney General verifies that any penalty has been paid. The New York Attorney General may also bring an action to dissolve or cancel any LLC that is delinquent in filing its BOI or attestation of exemption or otherwise violates the NYTA. Unlike the CTA, the NYTA does not impose a criminal penalty.

Confidentiality and access

The NYTA provides that the BOI collected by the authorities will be maintained in a secure database, deemed confidential, and not subject to public disclosure, except as authorized by law. The NYTA allows the NYDOS to share information respecting beneficial owners who are natural persons (1) pursuant to the written request of or by voluntary written consent of the beneficial owner; (2) by court order; (3) to officers or employees of another federal, state, or local government agency, where disclosure is necessary for the agency to perform its official duties or (4) for a valid law enforcement purpose. Any BOI disclosed shall not be further disclosed by any recipient except as authorized by law or as otherwise necessary to perform statutory duties. The NYTA does not require the NYDOS to notify the entity of the request or the disclosure, unless otherwise required by law. Conversely, the CTA requires FinCEN to notify the entity of the request or the disclosure unless otherwise prohibited by law.

Key compliance considerations

Regardless of the outcome of the CTA, the NYTA represents a significant change in the corporate transparency landscape in New York and imposes new compliance burdens and risks for LLCs that operate or do business in New York. LLCs should be aware of the potential consequences of non-compliance, including civil penalties and the possible disclosure of their beneficial ownership information to various authorities. LLCs should also monitor the implementation and enforcement of the NYTA and CTA, as well as any future guidance or regulations that may clarify or modify the laws.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

[Denise A. Pursley](#)

516.832.7542

dpursley@nixonpeabody.com