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What You Need to Know About New York's LLC Transparency Act

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Doing business in New York through a limited liability company ("**LLC**") is about to become a little more difficult. On January 1, 2026 ("**Effective Date**") the New York LLC Transparency Act ("**LLCTA**")¹ will take effect, requiring all LLCs that are either (i) organized under New York law or (ii) organized elsewhere but authorized to do business in New York² ("**Reporting Companies**") to report certain beneficial ownership information ("**BOI**") to the New York Department of State ("**NYDOS**"), unless an exemption applies. The LLCTA does not apply to non-LLC entities (e.g., corporations, partnerships or trusts) or LLCs that are neither formed nor authorized to do business in New York.

BOI Reporting

Unless an exemption applies, Reporting Companies are required to file BOI reports electronically with NYDOS disclosing identifying information for any individual who either (i) owns or controls 25% or more of the Reporting Company's "ownership interests" or exercises "substantial control" over the Reporting Company or (ii) is responsible for filing or directing the filing of a Reporting Company's organization or authorization documents in New York ("**Applicants**"), including, in each case, such persons':

- Full name;
- Date of birth;
- Current residential or business street address; and
- A unique identifying number from an acceptable government-issued identification document.

The LLCTA does not explicitly define the terms "ownership interests" or "substantial control" and instead refers to the definitions in the federal Corporate Transparency Act ("**CTA**") and related rules and guidance issued by the Financial Crimes Enforcement Network ("**FinCEN**").

Under the CTA, "ownership interests" include equity interests, capital or profit interests, convertible interests, and options as well "[a]ny other instrument, contract, arrangement, understanding, relationship, or other mechanism used to establish ownership."

¹ The LLCTA was originally signed into law on December 22, 2023 as Senate Bill S995B (available [here](#)) and was subsequently amended on March 1, 2024 by Senate Bill S8059 (available [here](#)).

² Being "authorized to do business in New York" requires an LLC formed somewhere other than New York to apply for authority to do business in the state.

The CTA deems an individual as having “substantial control” over a Reporting Company (even if they do not own or control 25% of such Reporting Company’s ownership interests) if they:

- Serve as a senior officer of the Reporting Company;
- Have authority over the appointment or removal of any senior officer or a majority of the board of directors (or similar body) of the Reporting Company;
- Direct, determine or have decision making authority or substantial influence over important matters affecting the Reporting Company; or
- Exercise any other forms of substantial control over the Reporting Company.

Similarly, the LLCTA does not contain a definition of the term “Applicant,” and instead refers to the definition under the CTA, which includes two categories of individuals:

- The individual who directly files the document to create or authorize a Reporting Company (for purposes of the LLCTA, in the case of a New York-formed Reporting Company, this is the individual who directly files such LLC’s initial organizational document in New York, and in the case of a foreign (*i.e.*, non-New York) Reporting Company, this is the individual who files the document first authorizing the LLC to do business in New York); and
- The individual who is primarily responsible for directing or controlling a Reporting Company’s filing of the organizational or authorization document.

Importantly, unlike the CTA, the LLCTA currently does not:

- Exempt Applicants of Reporting Companies existing before the Effective Date from filing; and
- Provide for the issuance of a “FinCEN ID” or similar unique identifier and instead requires that individuals disclose their personal information directly when filing BOI reports with NYDOS.

Reporting Exemptions

The LLCTA currently adopts by reference the CTA’s reporting exemptions.³ Notably, unlike under the CTA (whose exemptions are self-executing), any LLC relying on one of these exemptions from BOI reporting under the LLCTA must affirmatively claim that exemption by submitting an attestation to NYDOS specifying the exemption on which it is relying and providing the factual basis for the claim.

The categories of entities exempted from filing BOI under the CTA include (among others):

- An issuer of a class of securities registered under Section 12 of the Securities Exchange Act of 1934 (the “**Exchange Act**”) or that is required to file supplementary and periodic information under Section 15(d) of the Exchange Act;
- A regulated bank, bank holding company or savings and loan holding company;
- A broker or dealer registered with the Securities and Exchange Commission (“**SEC**”) under the Exchange Act;
- A regulated insurance company;
- Certain tax-exempt entities;

³ As discussed below, the New York legislature has passed, but Governor Hochul has not yet signed, amendments to the LLCTA that would explicitly list the categories of Reporting Companies exempt from BOI reporting. This list is generally the same as the CTA’s, although in some cases it is tailored to refer only to New York entities.

- “Large operating companies” that (i) maintain an operating presence in the U.S., (ii) have more than 20 full-time employees in the U.S. and (iii) have filed a U.S. tax return in the previous year reporting over \$5 million in gross receipts or sales;
- Investment advisers registered with the SEC (“**RIAs**”) and venture capital fund advisers filing with the SEC as exempt reporting advisers (together with RIAs, “**Exempted Advisers**”);
- Certain domestic “Pooled Investment Vehicles” (“**PIVs**”)⁴ managed by Exempted Advisers; and
- Controlled or wholly-owned subsidiaries of certain exempted entities (the “**Subsidiary Exemption**”).

Data Use

BOI reported to NYDOS by Reporting Companies will not be publicly accessible and generally will be used solely by government authorities for law enforcement and regulatory purposes.

Timing of Filings and Updates

Reporting Companies that were formed or authorized to do business in New York prior to the Effective Date must file their initial BOI reports with NYDOS by January 1, 2027. Any Reporting Company formed or authorized to do business in New York on or after the Effective Date will be required to submit its BOI report to NYDOS within 30 days of filing its articles of organization or its application for authority to do business in New York. LLCs relying on a reporting exemption must submit their attestations to NYDOS by the same deadlines.

Once an initial BOI report or exemption has been filed with NYDOS, Reporting Companies must confirm or update such filings’ contents annually. As a result, Reporting Companies should consider instituting policies and procedures designed to monitor for, and ensure timely reporting of, any corrections or updates.

Penalties

Reporting Companies that fail to comply with the LLCTA’s requirements risk the following penalties:

- Up to \$500 per day in fines;
- A mark of “Past Due” in public records if non-compliant for at least 30 days;
- A mark of “Delinquent” in public records if non-compliant for at least 2 years; and
- Potential suspension, cancellation or dissolution for ongoing delinquency.

Recent Developments

On March 21, 2025, FinCEN issued an interim final rule under the CTA that narrowed the scope of the rule’s “reporting companies” definition to foreign entities registered to do business in the U.S., effectively exempting U.S.-formed entities and U.S. persons from the federal BOI reporting requirements. The U.S. Treasury Department also announced a temporary suspension of enforcement and indicated that it intends to propose additional rulemaking to reshape the CTA’s BOI regime.

⁴ The CTA defines “Pooled Investment Vehicle” as any entity managed by an Exempted Adviser that (i) qualifies as an investment company under Section 3(a) of the Investment Company Act of 1940 (“**Investment Company Act**”) or (ii) relies on a Section 3(c)(1) or 3(c)(7) exemption under that Act and is (or will be) identified on an Exempted Adviser’s Form ADV (*i.e.*, a private fund).

In response to these federal developments, on June 10, 2025, New York lawmakers introduced Senate Bill S8432⁵ to amend the LLCTA. The bill aims to separate the state's reporting framework from the evolving federal rules and definitions in the CTA, incorporating New York-specific terms for "reporting company", "beneficial owner" and "exempt company." However, the bill does not define terms such as "applicant", "substantial control" or "ownership interest" and therefore the LLCTA continues to reference the CTA's definitions of such critical concepts. In practice, this means that New York LLCs must continue to rely on federal guidance and interpretations when assessing reporting requirements under the LLCTA. Senate Bill S8432 has passed in the New York State Assembly and Senate and is awaiting Governor Hochul's signature. While it is expected that the Governor will sign these amendments into law before the Effective Date, there remains uncertainty regarding how the LLCTA will operate if she does not do so.

Special Issues for Private Fund Sponsors

As with the CTA, the LLCTA poses special issues and questions for private fund sponsors who use New York-domiciled or -authorized LLCs in their corporate or fund structures. For example:

- Exempt reporting advisers utilizing the "private fund adviser" exemption under the Investment Advisers Act of 1940 do not qualify as Exempted Advisers (although another exemption may be applicable).
- Certain private funds (e.g., real estate vehicles relying on the Section 3(c)(5)(C) exemption under the Investment Company Act and funds managed by non-Exempted Advisers) are not exempt PIVs (although another exemption may be applicable).
- Should general partners or managing members of PIVs that meet the conditions of guidance issued by the SEC to be, and in fact are, regulated as RIAs be treated as Exempted Advisers?
- In response to a number of inquiries relating to BOI reporting under the CTA, FinCEN released guidance indicating that where an entity exempt from BOI reporting controls some but not all of the ownership interests of a subsidiary, such subsidiary did not qualify for the Subsidiary Exemption. FinCEN further clarified that, in order to qualify for the Subsidiary Exemption, the subsidiary's ownership interests must be 100% owned or controlled by an exempt entity. Will NYDOS take the same view?
- The Subsidiary Exemption does not apply to subsidiaries of a PIV. However, may a PIV's controlled or wholly owned subsidiaries (e.g., blocker or aggregator entities or other similar special purpose vehicles ("SPVs")) be deemed exempt on the theory that the PIV's Exempted Adviser indirectly controls the SPV's ownership interests (and therefore the SPV is eligible for the Subsidiary Exemption)? How does the existence of third-party investors in the SPV or officers/directors unaffiliated with the Exempted Adviser affect this analysis?

What You Should Do to Prepare

With the Effective Date approaching, clients should begin reviewing organizational structures to identify (i) any LLCs formed or authorized to do business in New York that may qualify as Reporting Companies and (ii) any applicable filing exemptions.

Your Weil team is available to assist regarding reporting obligations and claiming exemptions under the LLCTA. We will also continue to monitor any legislative and regulatory developments.

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⁵ The legislative history and full text of Senate Bill S8432 can be found [here](#).

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