








Corporate Transparency Advanced

July 23, 2024

Agenda

-  Purpose of The Corporate Transparency Act
-  Which business need to file and exemptions
-  Who needs to be listed
-  What information is required and what are the deadlines
-  Federal Court Decision & the Future of the CTA

Background

Terminology

- 👉 **CTA** - The Corporate Transparency Act
- 👉 **BOI(R)** - Beneficial Ownership Information Reports
- 👉 **FinCEN** - The Financial Crimes Enforcement Network

The CTA is intended to help prevent and combat money laundering, terrorist financing, corruption, and tax fraud through shell companies.

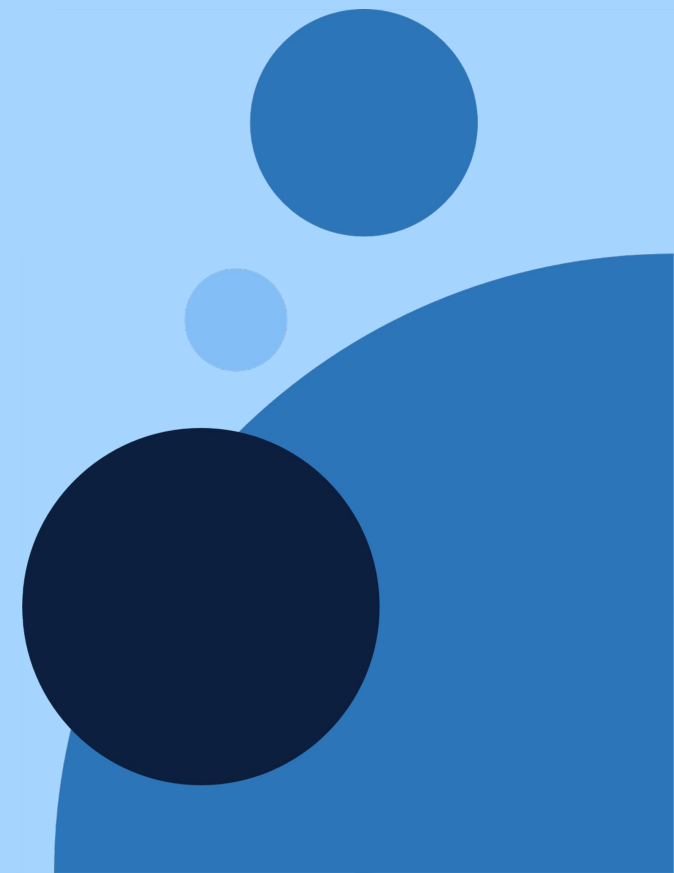


States

Willing to look the other way.

Feds (CTA)

Want to know who is behind every LLC.



Which business needs to
file a BOI
and which are exempt

Reporting Companies

Any entity created by the filing of a document with a secretary of state or any similar office.

- ✓ Corporation
- ✓ LLC
- ✓ LP
- ✓ Foreign Company registered in the US
- ✗ Sole Proprietorship
- ✗ General Partnership
- ✗ Most Trusts

23 Exemptions?

Most of these are not really exemptions, but rather they are already regulated by a government body such as..

- Securities Exchange Act
- Investment Company Act
- Federal Credit Union Act
- Bank Holding Company Act
- Investment Advisers Act
- Commodity Exchange Act
- Sarbanes-Oxley Act
- Payment, Clearing, and Settlement Supervision Act



Exempt Entities

1. Securities reporting issuer
2. Governmental authority
3. Bank
4. Credit union
5. Depository institution holding company
6. Money services business
7. Broker or dealer in securities
8. Securities exchange or clearing agency
9. Other Exchange Act registered entity
10. Investment company or investment adviser
11. Venture capital fund adviser

12. Insurance company
13. State-licensed insurance producer
14. Commodity Exchange Act registered entity
15. Accounting firm
16. Public utility
17. Financial market utility
18. Pooled investment vehicle
19. Tax-exempt entity
20. Entity assisting a tax-exempt entity
- 21. Large operating company**
22. Subsidiary of certain exempt entities
- 23. Inactive entity**

**Inactive Entities
are exempt, but your definition is
not the governments!**





Inactive Entity


must meet all 6 conditions!



1. The entity was in existence on or **before January 1, 2020.**
2. The entity is not **engaged in active business.**
3. The entity is **not owned by a foreign person**, whether directly or indirectly, wholly or partially.
4. The entity has not experienced any **change in ownership** in the preceding 12 month period.
5. The entity has not **sent or received any funds** in an amount greater than \$1,000, either directly or indirectly, in the preceding 12 month period.
6. The entity does not otherwise **hold any kind or type of assets.**



Large Operating Company

1. **20 full-time employees** of the entity are employed in the United States.
 2. **\$5,000,000 in gross sales** in the **United States** filed on its Federal income tax for the **previous** year.
 3. **A physical office** within the United States.
-

 **Affiliated group of companies** that files as such for taxes

-  can consolidate total income across group
-  cannot consolidate employee count for group

Who needs to be reported in
the BOI?

Reporting People

 **Beneficial Owners** - Ownership Interest

 **Substantial Control** - over the entity

 **Company Applicants** - who form company


Beneficial Owners

 **25% of total voting rights**

or

 **25% of total ownership**

interest or


 **if cannot determine, then**
25% of any class of shares


Own or control **at least 25%**
of the ownership interests

 stock or equity interest

 voting rights

 futures or convertible shares
into 25% ownership rights

 Any put, call, option or
straddle on 25% of the equity

 25% of any single class of
shares, even if there are multiple
classes

What is Substantial Control?



Substantial Control

- 🎮 Senior officers (C-Suite & General Counsel)
- 🎮 Authority to appoint or remove officers or a majority of directors
- 🎮 Important decision-maker
- 🎮 Any other form of substantial control

Company Applicants

- 👉 Person who forms entity
- 👉 Person who directs the formation

Companies formed before Jan 1, 2024 are exempt from reporting Company Applicants

REPORTING COMPANY

Type of entity:
LLC

Ownership interest:
Membership units

Individual C
Manager

50% of membership units

50% of membership units

Individual A
Manager

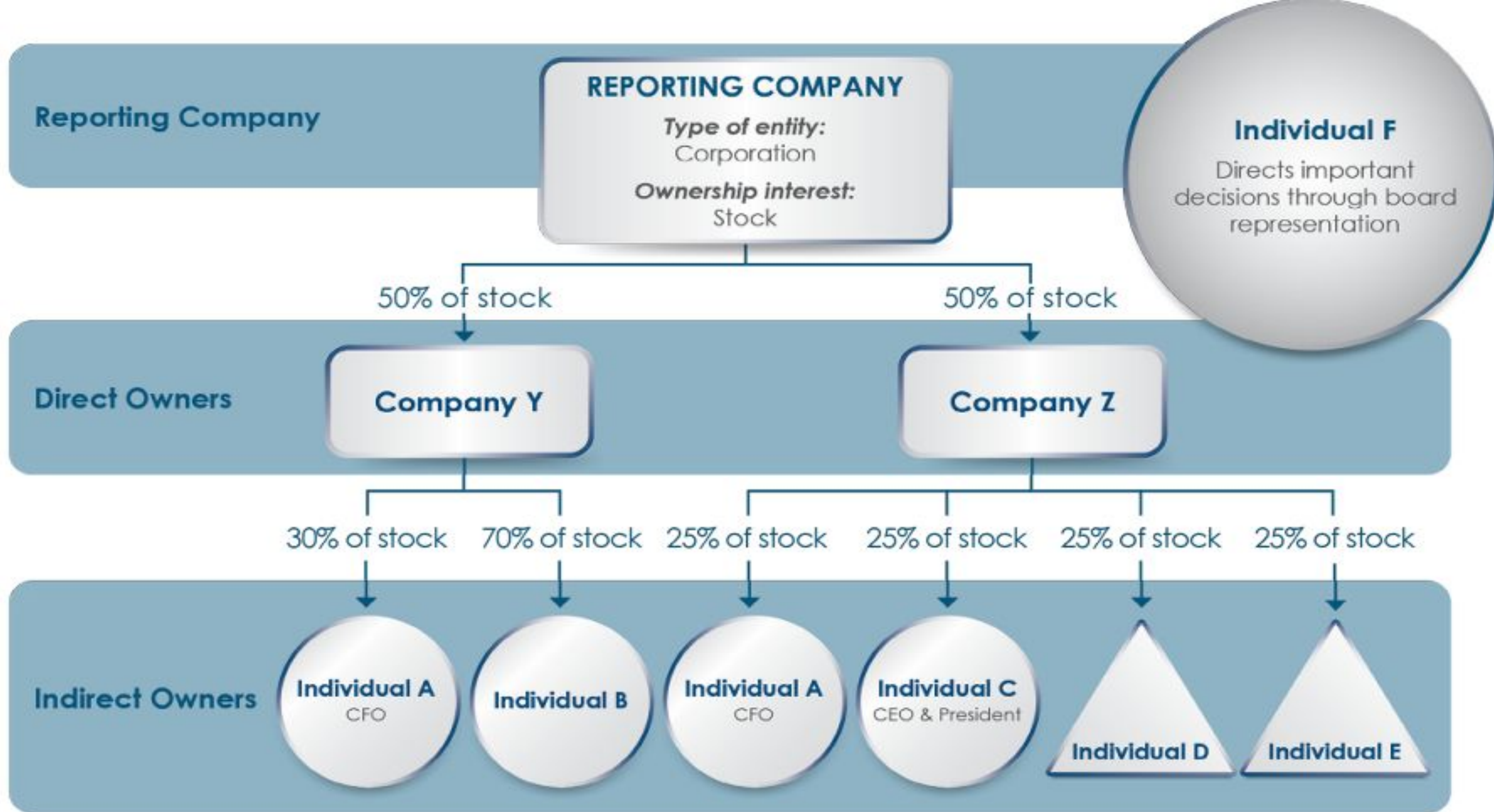
Individual B

LLCs As Beneficiary Owners

People

Not Companies





In this example, Individuals A, B, C, and F are beneficial owners.



Trusts

as beneficial owners

1. **Trustees** or other individuals with the authority to dispose of the Trust's assets
2. **Beneficiary** who (1) is the sole permissible recipient of the trust income and principal, or (2) has the right to demand a distribution of, or withdraw substantially all of the Trust's assets
3. **Settlor** who retains the right to revoke the Trust, or withdraw the trust's assets
4. **Trust protector** (or other individual) with the authority to remove and replace a trustee
5. **Distribution advisors** with the authority to direct the trustee to make distributions
6. **Investment advisors** responsible for investment decisions regarding the Trust's assets



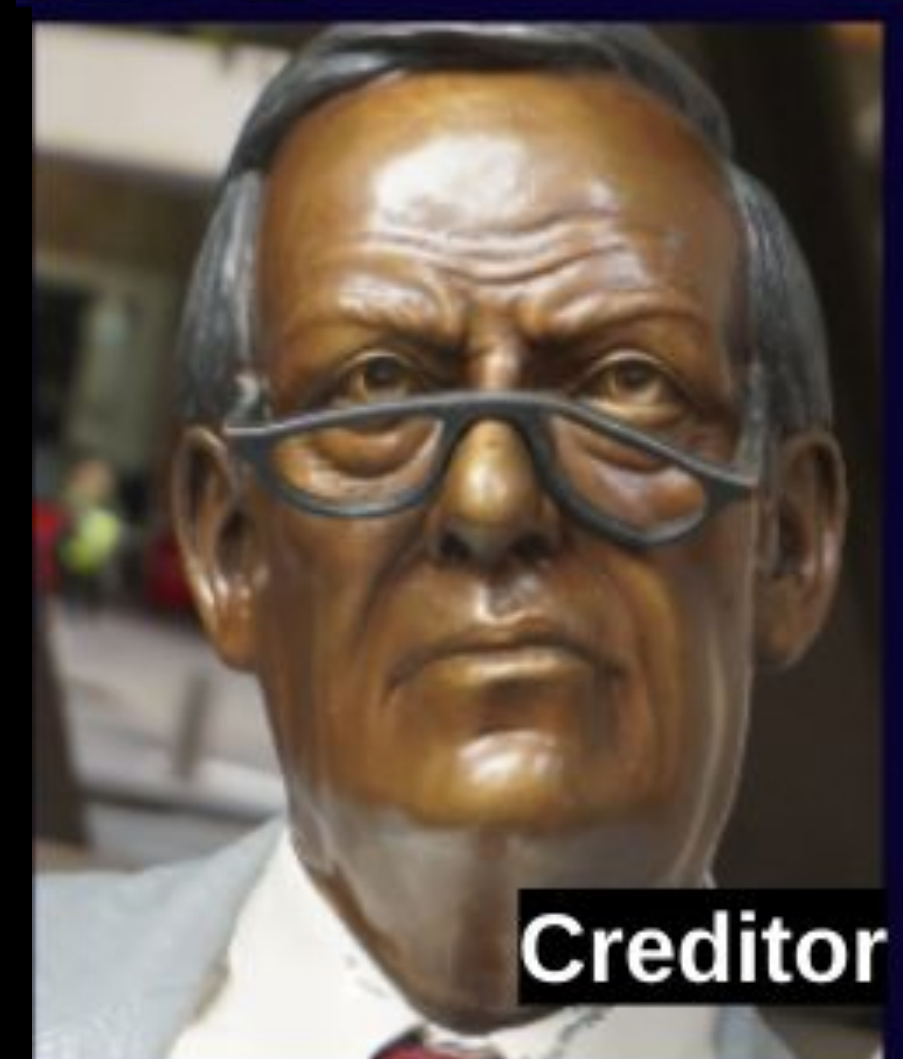
Future Inheritor



Minor

People Exempt

from Filing



Creditor



Employee



Custodian/Nominee

What information is required and what are the deadlines?

Reporting Company

- Legal name
- Any trade names or “DBAs”
- Current street address of principal place of business
- Jurisdiction of formation
- Taxpayer Identification Number (EIN)

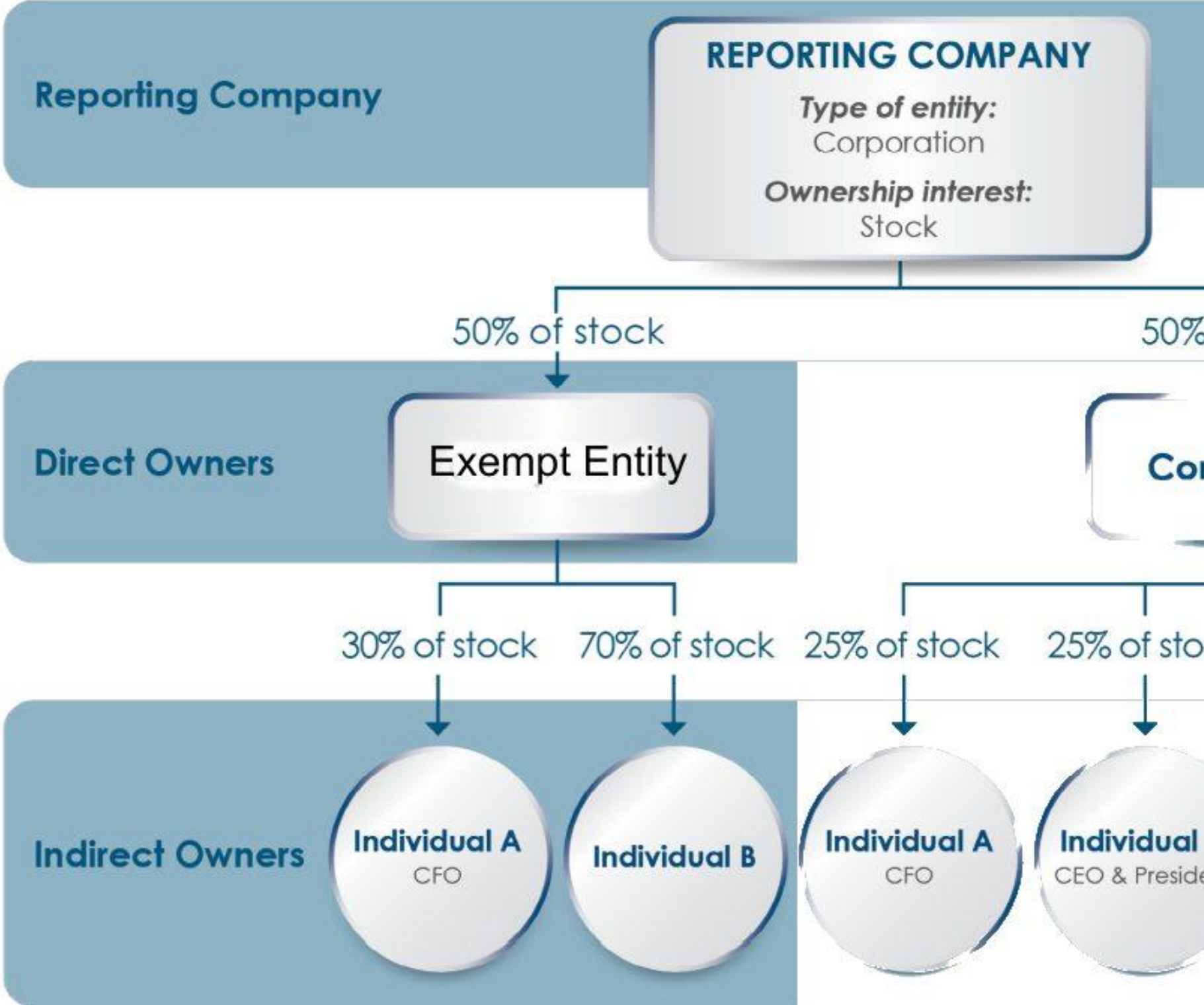
Beneficial Owner

- ✎ Legal name
- ✎ Date of birth
- ✎ *Residential Address
- ✎ *Personal ID:
 - Passport or
 - Drivers License number
- ✎ Copy of ID

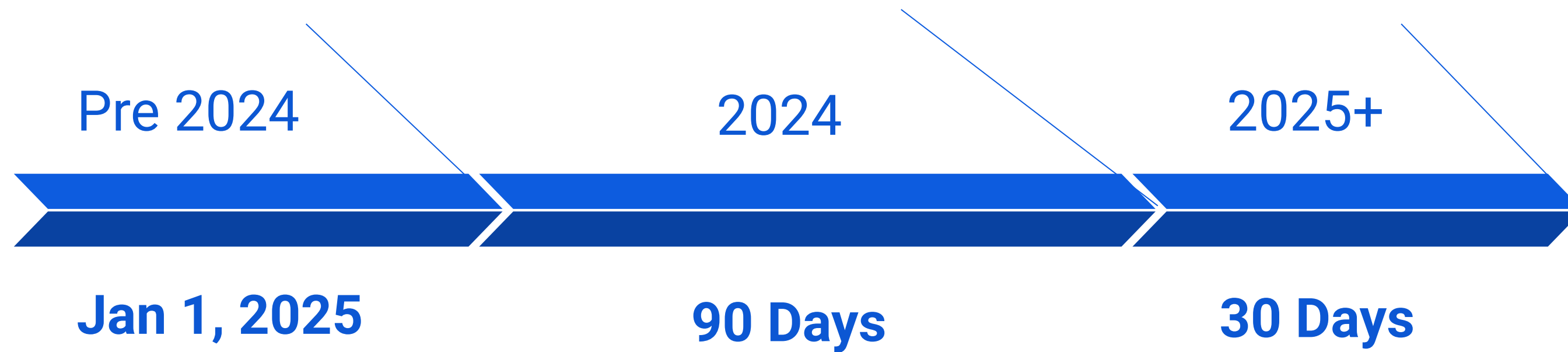
*Can Change

Exempt Entities

Report the names of all of the exempt entities instead of information about the individual who is a beneficial owner



Filing Deadlines





New FinCEN Update

Once you are required to file, dissolving entity will not exempt you!

LLCs that existed on Jan 1, 2024, even if they were subsequently dissolved, will still be required to file a BOI Report.

LLCs that were formed in 2024 but were dissolved before the 90 day filing deadline will need to file BOI Report even though they never reached their filing deadline.

Updated Filings

Update 30 Days

- New DBA
- New Beneficial Owner
- New Decision maker
- Deceased BO
- Minor reaches majority
- BO Change of Address
- Change of ID #

Inaccuracy

- 💡 Within 30 days after becoming aware
- 💡 Will not be penalized for inaccurately filed report, corrected within 90 days

Newly Exempt

Update FinCEN that company is now exempt.



IMPORTANT TIP: FinCEN ID enables you to update all your entities at once, for any change in your information.



Penalties

**Up to \$500 a day up to \$10,000
+ 2 years in jail!**



On March 1 U.S. District Court for the Northern District of Alabama stated: “The Corporate Transparency Act is unconstitutional because it cannot be justified as an exercise of Congress’ enumerated powers.”





Alabama Ruling

- 1. Where - Northern District of Alabama**
- 2. Ruling - Cannot be enforced against plaintiffs**
- 3. Plaintiffs - 60+K members of NSBA**



Arguments

- 1. Regulate commerce**
- 2. Oversee foreign affairs and national security**
- 3. Impose taxes and related regulations**



Michigan Case

- **1st Amendment (freedom of speech and association)**
- **4th Amendment (protection against unreasonable searches and seizures)**
- **5th Amendment (safeguards against self-incrimination and due process rights).**



What could happen next?

- 1. Lawsuits against CTA in other states**
- 2. Government appeals to Court of Appeals 11th Circuit**
- 3. Split Rulings**
- 4. Supreme Court**



How we can help you!

- 1. Expert assistance with LLCs & CTA**
- 2. User friendly LLC Portal to keep all your filings and documents organized and compliant**
- 3. Easily track and update BOI Reports**
- 4. Registered Agent service in all 50 states.**



Any Questions?