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Beneficial Ownership Information Reporting

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Agenda

- Introduction
- What is BOI?
 - › Reporting Companies
 - › Beneficial Owners
 - › Company Applicants
 - › FinCEN Identifier
 - › Information Needed for Reporting
 - › Filing Deadlines & Penalties
- Resources
- Q&A

Poll Question 1

How familiar are you with the CTA or the BOI filing requirements?

- a) Not aware
- b) A little aware
- c) Mostly aware
- d) Expert knowledge



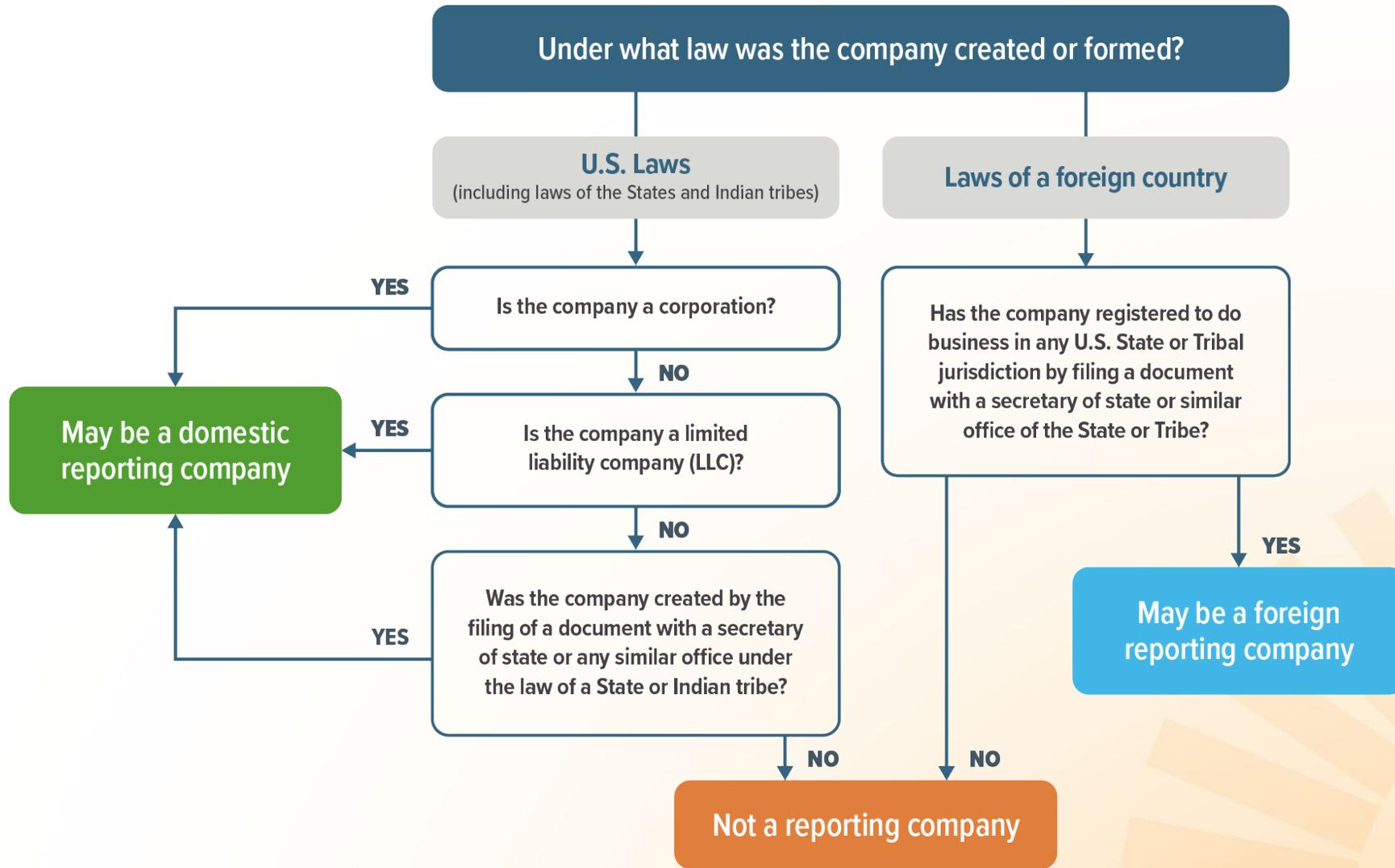
Beneficial Ownership Information (BOI) Overview

- Identifying Information
 - › Individuals directly/indirectly who own/control a company
- Corporate Transparency Act of 2021 (CTA)
 - › Enhance transparency/combat illegal financial activities
- Result = Some Businesses Must Report BOI to Financial Crimes Enforcement Network (FinCEN)
- Federal Effort at Data Collection

Step 1: Who Needs to File a BOI Report?

Reporting Companies

- Corporation
- Limited Liability Company
- Other Entities Created by Filing Document with a Secretary of State or Similar Office Under Law of a State or Indian Tribe
- Foreign Entities Registered to do Business in U.S.



Who May Be Exempt from Reporting BOI?

- 23 Types of Exemptions for Entities
 - › Reference [FinCEN guidance](#) for many nuances of exemptions
 - › If initially exempt, future change could trigger future filing requirement

23 Types of 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 provider
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

#21: Large Operating Company Exemption

- Requirements for Large Operating Company Exemption
 - › Employ > than 20 full-time employees in U.S.,
 - › Filed federal income tax returns in U.S. demonstrating > than \$5 million in gross receipts or sales in the previous year (including receipts or sales of subsidiaries and other entities through which the entity operates), AND
 - › Operating presence at a physical office within the U.S.

#23: Inactive Entity Exemption

All six of the following criteria must apply. The entity:

1. Has been in existence on or before January 1, 2020
2. Is **not** engaged in active business
3. Is **not** owned by a foreign person, directly or indirectly, wholly or partially
4. Has **not** had a change in ownership in the preceding 12-month period
5. Has **not** sent or received funds in an amount > than \$1,000 (directly or through any financial account in which the entity or any affiliate of the entity had an interest) in the preceding 12-month period
6. Does **not** otherwise hold any kind or type of assets, in the U.S. or abroad, including any ownership interest in any corporation, limited liability company or other similar entity

Poll Question 2

Which of the following describes BOI reporting?

- a) Created to enhance transparency
- b) Developed to prevent anti-money laundering activities
- c) A report filed with FinCEN
- d) All of the above



Step 2: Identify Beneficial Owners

- Someone Through Contract, Arrangement, Understanding, Relationship or Otherwise:
 - › Exercises substantial control over the entity, **OR**
 - › Owns or controls not less than 25% of the ownership interests of the entity, AND
- Who is Not:
 - › A minor, if the parent is being reported,
 - › Individual acting as nominee or agent for another,
 - › Individual acting solely as an employee for the reporting company,
 - › Individual whose interest is only through a right to inheritance, or
 - › Creditor, unless they meet the above definition of control or ownership

Substantial Control Indicators

(partial listing)



SENIOR OFFICER

Any individual holding the position or exercising the authority of an officer, such as but not limited to:

**President, Chief Financial Officer (CFO),
General Counsel (GC), Chief Executive Officer (CEO)
or Chief Operating Officer (COO)**



APPOINTMENT OR REMOVAL AUTHORITY

Any individual with the ability to appoint or remove any **SENIOR OFFICER** or a majority of the board of directors or a similar body.



IMPORTANT DECISION-MAKER

Any individual who directs, determines or has substantial influence over important decisions made by the reporting company, in regard to the reporting company's:

Business: Nature, scope, attributes, etc.
Finances: Transfer of principal assets or investments
Structure: Reorganization, dissolution or merger



CATCH-ALL

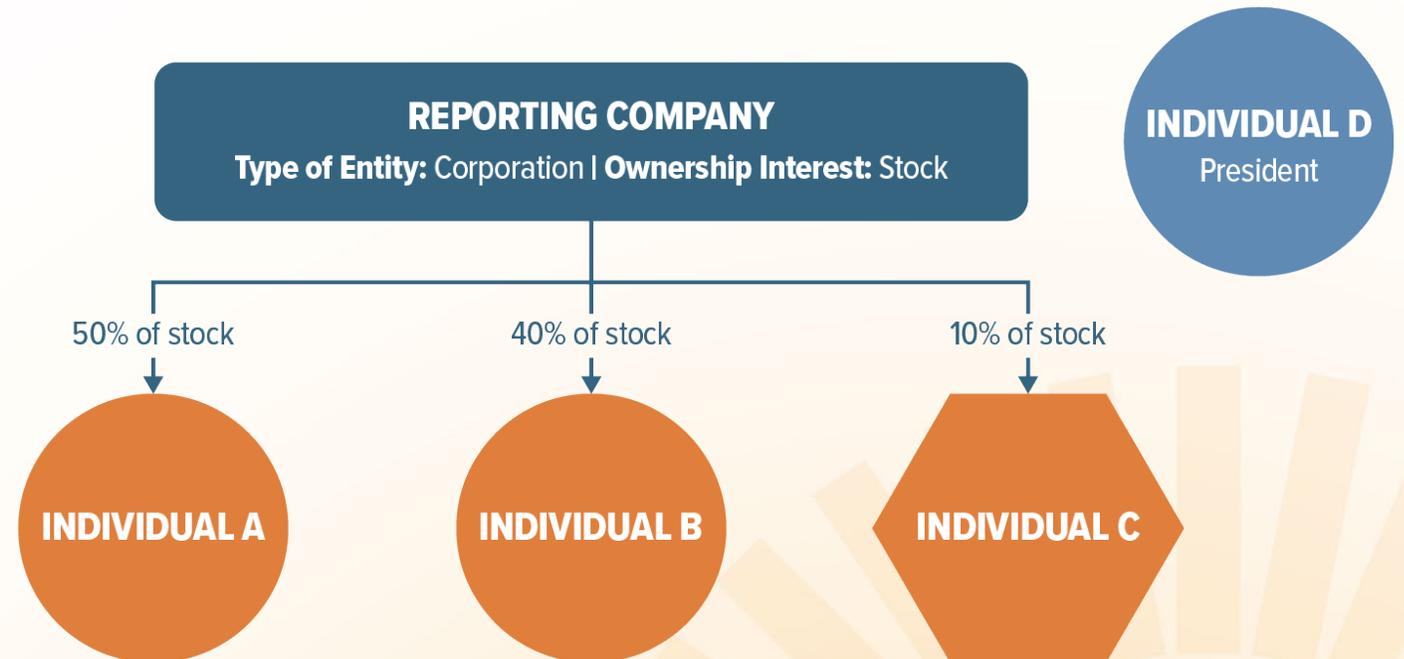
Any other form of substantial control over the reporting company. Control exercised in new and unique ways can still be substantial. For example, flexible corporate structures may have different indicators of control than the indicators included here.

Adapted from the Small Entity Compliance Guide

Example

- Reporting Company: Corporation
- Total Outstanding Ownership Interests: Shares of Stock
- 3 People (A, B & C) Own 50%, 40%, 10%, Respectively
- Individual D Acts as President; Does Not Own Stock
- Individuals A, B & D Beneficial Owners; Must Report
- Individual C is NOT Beneficial Owner

Excerpt from the Small Entity Compliance Guide



Step 3: Identify Company Applicants

- For Entities Created **On or After Jan. 1, 2024**, Company Applicants Must:
 - › Be individuals – Not companies or legal entities
 - › File an application to form a corporation, LLC or similar entity under the laws of a state or Indian tribe; OR
 - › Register or file an application to register a corporation, LLC or other entity formed under the laws of a foreign country to do business in the U.S. by filing a document with the Secretary of State or similar office under the laws of a state or Indian tribe

Step 4: Obtain FinCEN Identifier, If Needed

- Unique Identifying Number FinCEN Issues to Individual or Reporting Company
 - › Upon request, after providing certain information to FinCEN
 - › Individual or reporting company not required to obtain one
 - › One FinCEN identifier per individual/reporting company
 - › Can be included in company BOI report instead of certain required information about beneficial owners or company applicants
- Especially Useful if Multiple Entities are Involved
- Simplifies Process to Update Beneficial Owner or Company Applicant's Personal Information in Future

When May a Reporting Company Report Another Entity's FinCEN Identifier Instead of BOI?

Three Conditions Must Be Met:

1. Other entity obtains a FinCEN identifier and provides it to the reporting company,
2. Beneficial owners hold interests in the reporting company through ownership interests in the other entity, AND
3. Beneficial owners of the reporting company and other entity are exact same individuals

Poll Question 3

Which of the following is a beneficial owner?

- a) Chief Executive Officer
- b) Partner who owns more than 25%
- c) Chief Financial Officer
- d) All of the above



Step 5: Gather Information for BOI Reporting

Reporting Company

- Full legal name
- Trade name or DBAs, if applicable
- Current U.S. business address (no P.O. boxes)
- State, tribal or foreign jurisdiction information, and
- IRS TIN or EIN

Beneficial Owner and Applicant Information

- Full legal name
- Date of birth
- For beneficial owners, complete current address of their primary residence
- For company applicants, the business address, and
- Identifying number and issuing jurisdiction from, and image of certain non-expired documents

Step 6: Understand Filing Deadlines & Penalties

Date Company Was/Is Established	Initial BOI Report Submission Deadline
Prior to January 1, 2024	Jan. 1, 2025
On or after January 1, 2024, and before January 1, 2025	90 days from formation
2025 or later	30 days from formation

Any updated or corrected changes need to be submitted within 30 days

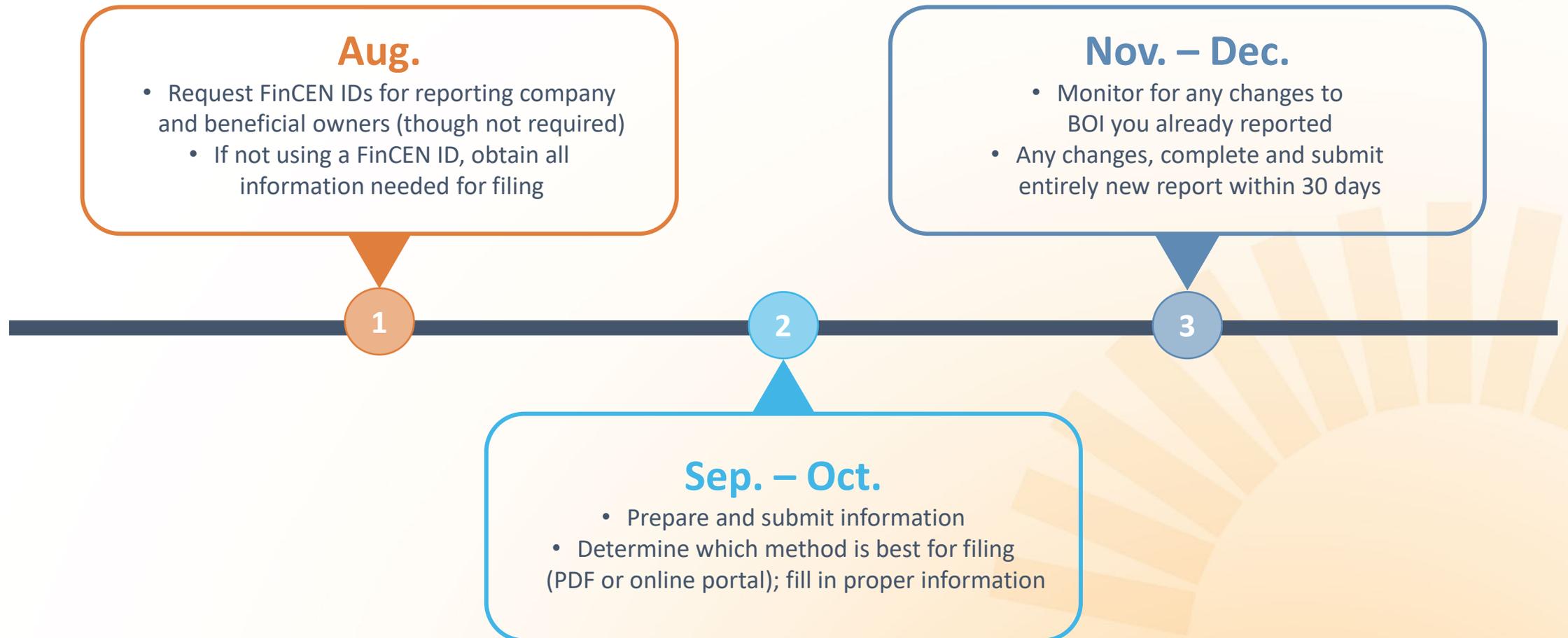
Circumstances to File Updated Report

- **If Changes to Reporting Company/Beneficial Owner Info Previously Submitted to FinCEN**
- **Non-Exhaustive Trigger Events:**
 - › Registering a new DBA;
 - › Change in individuals holding any of the following positions/positions with similar authority:
 - President
 - Chief Financial Officer
 - General Counsel
 - Chief Executive Officer
 - Chief Operating Officer
 - › Death of a beneficial owner
 - › A sale that alters who meets the ownership threshold of 25% ownership interests in the reporting company
 - › Beneficial owner changes his or her name
 - › Beneficial owner moves to a new address
 - › Beneficial owner's identifying document changes
 - › Beneficial owner that was a minor child reaches the age of majority
 - › Company learns of inaccuracy in report
 - › FinCEN identifier changes, or
 - › A non-exempt entity becomes exempt after filing a report

Penalties for Willful Noncompliance

- Civil Penalties = Up to \$500/Day as Violation Continues
- Criminal Penalties = \$10,000 and/or Up to 2 Years Imprisonment
- Made Mistakes or Omitted Info? 30 Days to Correct Report and Avoid Penalties

BOI Reporting – Timeline



Poll Question 4

How do you feel about filing a BOI report for your entity?

- a) Very confident
- b) Somewhat confident
- c) I need to read up more on the guidance
- d) I would like help filing my BOI report



Resources

- [Beneficial Ownership Information Reporting Resource Center](#) | Cohen & Company
- [Corporate Transparency Act: Preparing to Report](#) | McDonald Hopkins
- [Corporate Transparency Act Goes into Effect January 1](#) | McDonald Hopkins
- [Beneficial Ownership Information Reporting](#) | FinCEN.gov

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