Corporate Transparency Act

What you need to know about this new federal reporting obligation

A new federal law requires businesses and their owners to disclose personal information to a federal law enforcement agency, absent limited exceptions.

What is this law about? At its core, the CTA requires reporting of personal direct and indirect beneficial ownership and control information pertaining to businesses operating in the US. The personal identifying information (PII) includes name, address, and photographs. The financial crimes enforcement arm of the U.S. Department of Treasury (FinCEN) estimates 32 million businesses will be required to report in 2024. This law aims to prevent money laundering, illicit financial activities, corrupt practices and terrorist financing.

Who must report? Beginning January 1, 2024, PII must now be reported for persons owning, directly or indirectly, 25% or more of economic interest in the business or who have "substantial control" over the business. Every business will have at least one person to report, regardless of its ownership or control structure. Once the initial report is filed, this information must be updated within 30 days of any subsequent change event. Attribution of ownership and what constitutes substantial control will vary from business to business and will require analysis and advice.

What must be reported for beneficial owners? The PII required to be reported under the CTA includes: a person's full legal name, birthdate, residential street address and an image of an acceptable government issued ID showing the ID number and the person's photograph.

What must be reported for company applicants? The same PII as disclosed for beneficial owners (above) must also be reported for company applicants (these are the entity's incorporators or organizers). This requirement applies only for businesses newly formed after January 1, 2024. Once reported, company applicant information is not required to be updated in the future (as is the case for beneficial owners).

Exempt Entities Categories. These generally include, among others, regulated business entities, such as publicly traded companies, insurance businesses, banking businesses, 501(c) recognized non-profit entities, and quasi-governmental organizations.

The Size Exemption. A catch all exemption is available for any business entity that meets all three of the following thresholds: (1) have a physical street address in the U.S., (2) have 21 or more full time employees, and (3) generate more than $5 million in annual gross receipts as reported on the business' prior year federal tax filing. This means all newly formed entities, not meeting any other exemption, will need to file as they will not have a tax return on file.

What will compliance look like? Businesses will need to compile, maintain and update their BOI constantly to meet the CTA's compliance obligations. Any change to or correction of previously reported information must be done within 30 calendar days of the event. All newly formed business entities beginning January 1, 2024 will be required to file their initial CTA report within 90 calendar days of formation.

What happens if you don't comply? There are steep fines ($500 per day up to $10,000) per incident (not just the initial incident) and possible jail time (up to two years) for those willfully failing to timely and properly comply with the CTA.

Who may access FinCEN's Beneficial Ownership Secure System (BOSS)? Information in the BOSS will be accessible by law enforcement at the federal, state and local levels. Financial institutions may also have access upon their customer's consent. This information is not available to the general public.

Conclusion. The compliance requirements under the CTA went live January 1, 2024. Polsinelli has a team established, equipped and prepared to address your questions and compliance issues, and to strategically structure, implement and execute a plan of action specifically with you.

KEY CONTACTS

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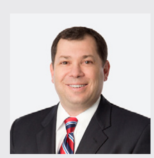

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CTA Reporting Exemptions

Are you one of the following?

- Sole Proprietorship
- Estate Plan Trust
- General Partnership*

**Not to be confused with a limited partnership or the general partner of a limited partnership.*

YES → EXEMPT

NO

Is your business one of these entity types?

- Corporation
- Business Trust
- Cooperative Association
- Limited liability company
- Series of a series LLC
- Decentralized autonomous organization (DAO)
- Limited partnership
- Limited liability partnership
- Limited liability limited partnership

**Or a similar entity that is (i) created by the filing of a document with a secretary of state's office, or (ii) a non-US entity registered to do business in the United States by a filing with a secretary of state's office.*

NO → EXEMPT

YES

Are you in a highly regulated industry or sector?

- SEC Registered Parties
- Utilities
- Financial Institutions
- Insurance Providers
- Commodity Exchanges
- CPA firms registered under Sarbanes-Oxley Act
- Certain pooled Investment Vehicles
- IRC § 501(c) recognized non-profit entities
- Wholly owned subsidiary of certain CTA exempt companies
- Governmental or quasi-governmental entities
- Certain un-capitalized entities without activity or foreign owners

YES → EXEMPT

NO

Do you meet all three of the following criteria?

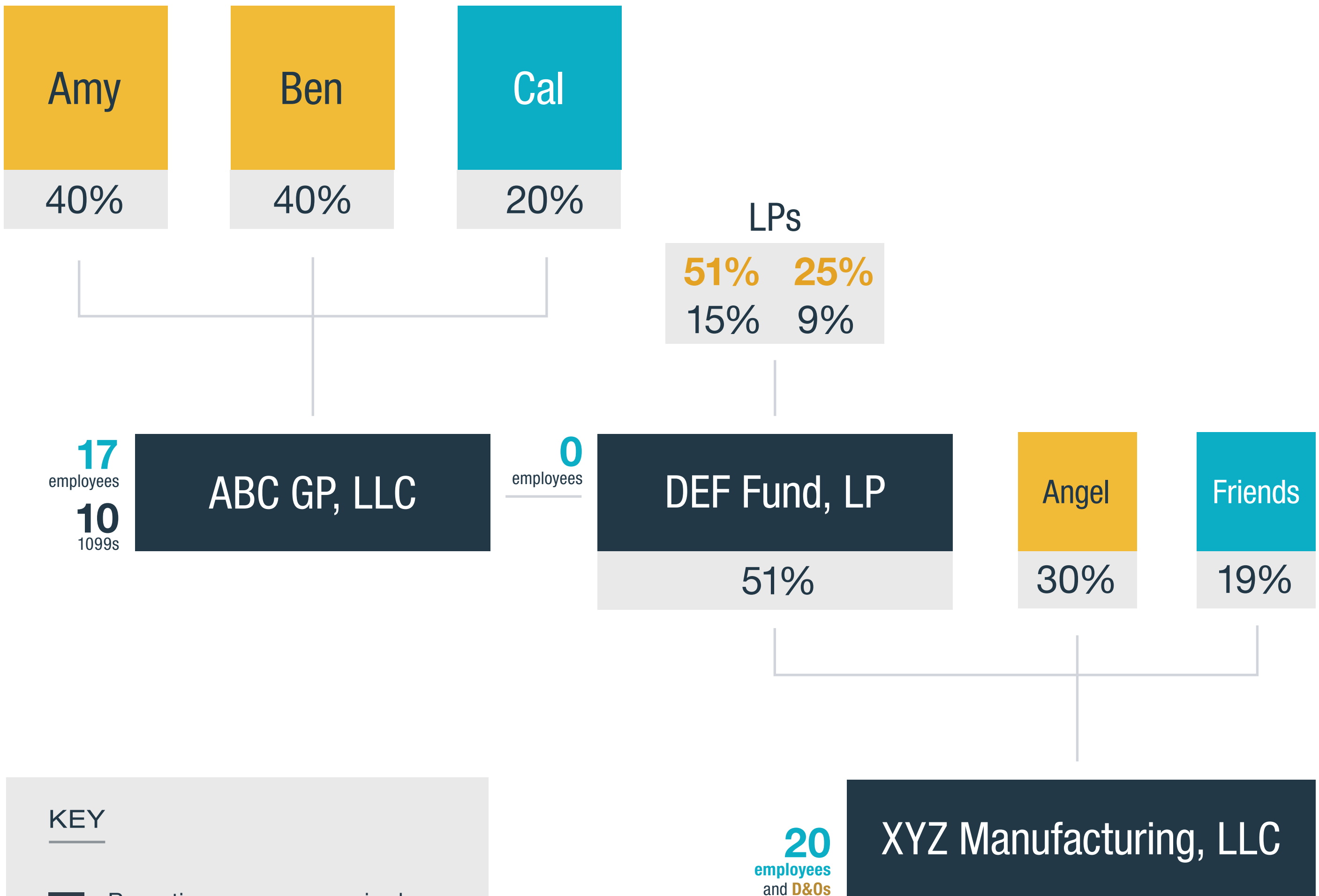
- Physical U.S. commercial address (*Lease or deed*)
- Over $5 Million reported gross receipts or sales from US sources on most recent federal tax filing
- More than 20 Full Time Employees (*Not 1099 or Full time equivalent, part-time or leased employees)*

YES → EXEMPT

NO

You are a "reporting company" under the CTA and need to discuss reporting requirements.

Hypothetical: Who Needs to Report and What Needs to be Reported?



KEY

- Reporting company required to file under the Corporate Transparency Act
- Required to be reported as a beneficial owner
- May be required to be reported as a beneficial owner

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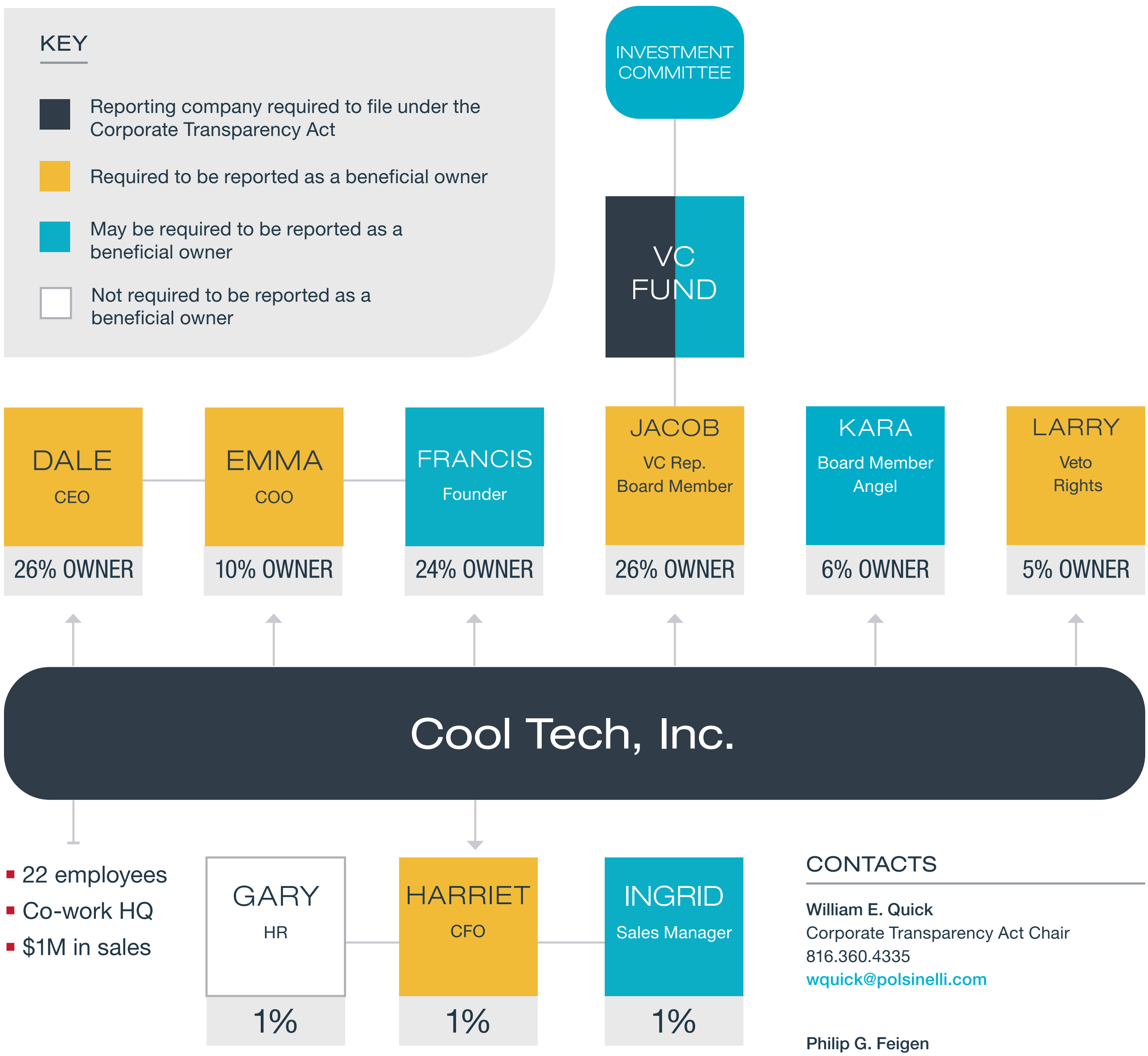
Corporate Structure I



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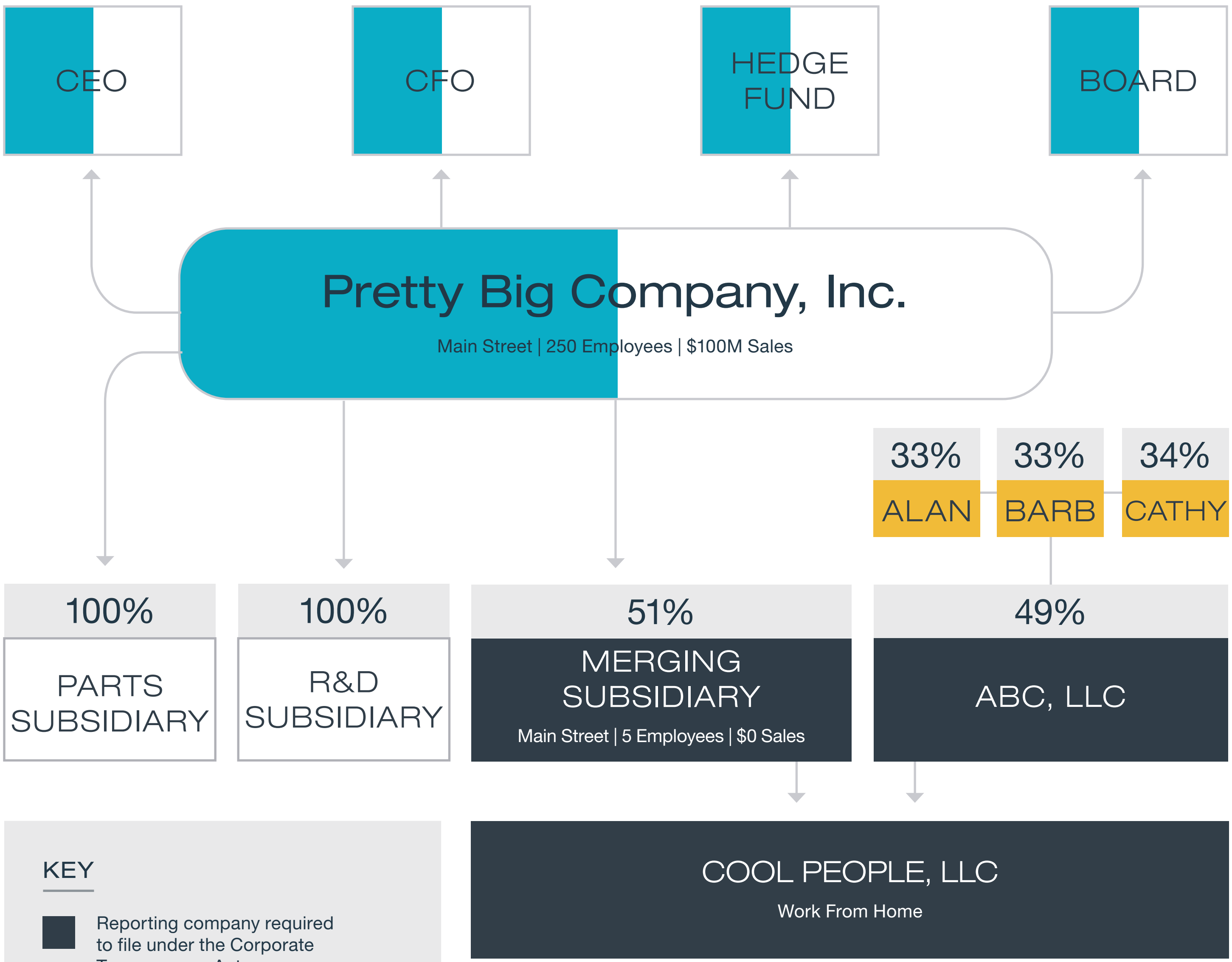
Corporate Structure II



KEY

- Reporting company required to file under the Corporate Transparency Act
- Required to be reported as a beneficial owner
- May be required to be reported as a beneficial owner
- Exempt reporting company

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