

# CTA: FinCEN Clarifies Ownership Interests Must be Entirely Controlled or Wholly Owned to Qualify for the Subsidiary Exemption

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On January 12, 2024, the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) released additional FAQs<sup>[1]</sup> in response to questions received regarding compliance with various aspects of the Corporate Transparency Act’s Beneficial Ownership Reporting Rule (the “**BOI Rule**”), which came into effect on January 1, 2024.<sup>[2]</sup> One such question relates to the exemption available to subsidiaries that are “controlled or wholly owned” by certain categories of exempt entities (the “**Subsidiary Exemption**”). The question asks whether a subsidiary whose ownership interests are only partially controlled by an exempt entity would qualify for the subsidiary exemption. In response to this question, FinCEN clarified that a subsidiary’s ownership interests must be “*fully, 100 percent*”<sup>3</sup> owned or controlled by an exempt entity.” FinCEN goes on to say that “control of ownership interests” means that the exempt entity “entirely controls” all of the ownership interests of the subsidiary in the same way that an exempt entity must wholly own all of a subsidiary’s ownership interests to qualify for the Subsidiary Exemption.

Some commentators had posited that control of the ownership interests of a subsidiary did not require that all of the ownership interests be entirely controlled by an exempt entity, because the language of the Subsidiary Exemption reads “controlled or wholly owned” and not “wholly controlled or wholly owned.” With this FAQ, it is clear that interpretation is not correct. To qualify for the Subsidiary Exemption, all of the ownership interests of the subsidiary must be entirely controlled or wholly owned, directly or indirectly, by one or more qualifying exempt entities.

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[1] The FAQs released by FinCEN and updated periodically are available at <https://www.fincen.gov/boi-faqs>.

[2] For more information on the Corporate Transparency Act and the information required to be included in Beneficial Ownership Reports, please see our client alert, [Shining a Light on the Corporate Transparency Act: FinCEN's Rules for Beneficial Ownership Reporting](#).

3 Emphasis in the original.

*Elanit Snow contributed to this article.*

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