Selected Regulatory Topics: Competition, Government Contracting, CFIUS, International Trade, Labor & Employment

COZEN O'CONNOR

Cozen O'Connor at a Glance

FULL-SERVICE AMLAW 100 FIRM

BUSINESS LAW | LITIGATION | GOVERNMENT RELATIONS

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COZEN O'CONNOR

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- Aviation & Unmanned Aircraft Systems
- Corporate (including M&A, Capital Markets & Securities, Financing, and all types of transactions)
- Customs, Imports & Trade Remedies
- Cybersecurity
- Emerging Business & Venture Capital
- Financial Services
- Government Contracts
- Government Relations
- Health Care & Life Sciences
- Immigration
- Insurance
- Intellectual Property
- International Arbitration
- International Trade & Customs
- Israel
- Labor & Employment
- Litigation
- Mergers & Acquisitions
- Product Liability
- Real Estate
- Renewable Energy
- Tax
- Technology, Privacy & Data Security
- Telecommunications
- Trade Regulation, Export Controls & Sanctions
- Trade Secrets, Restrictive Covenants, and Computer Abuse
- White Collar Defense & Investigations

The Big Picture

- Long-term trend is increased antitrust enforcement
- Peaked during Biden Administration
  - Few lasting impacts
- Populist nature of Trump Republicanism has kept Antitrust as a focus
- Weak monopolization laws limit enforcer effectiveness

The HSR Premerger Review Process

- **Filing is not voluntary**
  - **Must meet Size of Transaction ($133.9M) and Size of Person**
  - **Many exemptions**
- **DOJ/FTC have overlapping jurisdiction (+State AGs)**
- **Filing is data and documents – No prose**
  - **Your deal documents (CIP, management presentations, etc.) are critical**
  - **Early antitrust review of documents is crucial**
- **30 day / 30 day / 6-9 month (Second Request) review periods**
  - **Avoiding a Second Request is typical goal**
  - **Government is on a clock that the parties (somewhat) control**
  - **Review is relatively informal**
- **Understanding HSR process is key to negotiating antitrust risk shifting provisions**

Unilateral Conduct Laws are Relatively Weak

- US laws on "concerted" conduct (mergers, anticompetitive agreements, conspiracies, etc.) are similar to others
  - Vertical distribution agreements (even on price) are a notable exception
- Laws on single-firm "unilateral" conduct are weak
  - High market share generally required for monopolization or attempted monopolization
    - Non-competes, unilateral vertical restrictions, generally permitted
    - Rarely have a duty to deal with a competitor
  - Price discrimination laws are (mostly) not enforced

Class Actions Are the Worst-Case Scenario

- **Investigations are costly, but government remedies tend to be small for civil infractions**
- **The real pain is the class action that follows**
- **Class certification + losing motion to dismiss = Pain**
- **Treble damages and legal fees are in play**

State Attorneys General Are a Force

- **Each US State/Territory has an Attorney General**
- **Most are elected**
- **State AGs are increasingly leading antitrust enforcement**
  - **Most active in localized industries (e.g. hospitals)**
  - **Increasingly involved in national matters**
  - **Involved in mergers notwithstanding limited pre-merger filing/approval regimes**

Increased Focus on Pricing

- **Populism of Republicans + higher inflation has led to bipartisan focus on pricing**
  - **Dynamic/Algorithmic pricing**
    - **Undisclosed personalized pricing**
    - **Automated data-sharing**
  - **Attempted revival of price discrimination laws**
- **Consumer protection issues**
  - **Drip pricing**
  - **“Junk” fees**

Context

Have you ever received a ridiculously long, detailed, citation-laden compliance list when you thought you'd be receiving a simple P.O.?
As you know, this is how our government contracting legal work often starts with Israeli companies.
Welcome to the world of regulation, flow downs and US government contracting!
The USG is the largest & most complicated procurement system in the world, whether you're a prime or a sub—and that's why your companies need to care.
USG is the largest purchaser of products & services & largest owner of real estate.

SOME UNIQUE ASPECTS OF U.S. GOVERNMENT CONTRACTS



Government terms and conditions are part of the Federal Acquisition Regulations ("FAR")– have the force and effect of law – as such limited ability to negotiate – really quantity, cost, time/schedule – not much else.



As FAR clauses are regulatory, they have the force and effect of law, and can be read into the contract as a 'shall' clause or if impacts public policy – even if not intentionally included – the *Christian* Doctrine

OVERVIEW

- The Current Administration
- Domestic Material and Goods Preferences & Trade Agreements
- Executive Orders and Policy Shifts [brief mention above]
- National Security and Foreign Ownership Concerns
- Compliance with the Federal Acquisition Regulations (FAR)
- Suspension, Debarment, and Responsibility Determinations

The Current Administration

	**U.S. Government Contracts, as with most other areas of U.S. Government & Regulation/Enforcement, currently in a major state of flux under the current Administration.**	**Contractors & Counsel need to stay in close touch with us even if you think you understand the principles of US government contracting**
	**FAR 2.0 – a rewriting and 'simplification' of the FAR**	**On-going effort but often ignores many long-standing policies and regulations.**
	**Anti-DEI (Diversity, Equity & Inclusion) – at least based on race.**	
	**Extensive use of Fraud investigation & punishment 'tools.'**	**Use of the Government as a tool for "personal vendettas."**

Domestic Material and Goods Preferences & Trade Agreements

At present, the Trump Administration is taking protective measures via the institution of Tariffs and other restrictions on the importation of goods, predominantly from China and other like countries – there are exceptions, but they are fact intensive.

Many other long-standing (and more recent) Domestic Preference Laws & Programs

Domestic Preferences – Key Regimes

- **U.S. procurement is governed by multiple domestic preference regimes — most notably:**
  - **The Buy American Act (BAA) prefers or favors U.S.-made end products, goods & construction materials**
  - **Also, other programs- FTA has the Buy America Regulations for transit-related procurements;**
  - **Infrastructure Investment & Jobs Act – has the BABA – Buy America Build America**
  - **The Trade Agreements Act (TAA) generally allows procurement of products from designated countries under qualifying trade agreements**
    - **Israel is a listed member via the Israeli Trade Act of 1985**

Table 1 to Paragraph (b)

Trade Agreement	Supply Contract (equal to or exceeding)	Service Contract (equal to or exceeding)	Construction Contract (equal to or exceeding)
Israeli Trade Act	50,000	-	

Domestic Preferences – Due Diligence & Risks

- **Foreign companies must carefully perform due diligence and consider, among other things:**
  - **Is a given procurement subject to the BAA or TAA?**
    - **Is the product or service exempted?**
  - **Is their country qualified as a TAA-designated country and allowed an exception to the BAA (or other exceptions that may apply to other preferential programs)?**
  - **Has or how does the USG define the 'country of origin' for its products?**
  - **Their products supply chain – where do components come from, what percentage, and where is final assembly or 'substantial transformation' taking place?**
  - **Noncompliance may have repercussions, including: rejection of the bid/proposal; termination of the contract (usually for default, not convenience), negative past performance reviews, suspension/debarment or even False Claims Act exposure – including personal and corporate civil and criminal penalties.**

Executive Orders and Policy Shifts (Brief)

- **Executive Orders and Policy Shifts – specific to each President**
- **There have been extensive Executive Orders and Policy Shifts by the Trump Administration – including a number of materials changes to prior presidents' EOs.**
- **Must keep on top of this – constant shifting of the field.**
  - **239 EOs as of 2/12/26**
  - **Cover wide scope – Reopening the Alaska Oil Fields**
  - **DOGE**
  - **DEI**
  - **Federal Workforce**
  - **Environmental Roll Backs (2/12/26 Removal Of Endangerment Finding – Clean Air)**
  - **FEMA reduction**
  - **War on Drugs**
  - **And on and on**

National Security and Foreign Ownership Concerns



DCSA – Defense Counterintelligence & Security Agency



NISPOM – National Industrial Security Program Manual



National Security and Foreign Ownership Concerns -

"FOCI" - Foreign Ownership, Control, or Influence

- FOCI exists whenever a foreign interest has the direct or indirect ability, even if not exercised and even if not "exercisable" to direct or decide matters affecting the management or operations of the company in a manner such that unauthorized access to classified information may result OR which may otherwise adversely affect performance under a classified contract.
- A company determined to be under FOCI not eligible to get Facilities Security Clearnce unless the FOCI factors have been mitigated/resolved.

FOCI – Practical Implications

	**For defense and sensitive civilian contracts, foreign ownership *will* trigger scrutiny under FOCI rules.**

	**Companies that will access classified information or perform sensitive work may need to:**	**Mitigate foreign ownership through proxy agreements, voting trusts, or special security agreements** **Undergo extensive security reviews** **Limit access to certain programs or data**

National Security and Foreign Ownership Concerns

FOCI Factors

- **Record of economic and government espionage against US targets,**
- **Record of enforcement and/or engagement in unauthorized technology transfer,**
- **Type and sensitivity of information requiring protection,**
- **The source, nature and extent of FOCI,**
- **Record of compliance with pertinent US laws, regulations and contracts,**
- **Nature of bilateral and multilateral security and information exchange agreements, and**
- **Ownership or control, in whole or in part, by a foreign government.**

Key FOCI Factor for Israeli Companies

- **Key Management Personnel, officers and directors *must* be U.S. Citizens and cleared.**
  - **Foreign party with interest can have a U.S.-based representative (the "Inside Director") but no interlocking relationships.**
  - **Need to have FOCI mitigation agreements –**
    - **Voting Trust Agreement**
    - **Proxy Agreement (Proxy Boards)**
    - **Special Security Agreement (SSA)**
    - **Security Control Agreement**
    - **Affiliated Operations Plan (AOP)**

National Security and Foreign Ownership Concerns

- **LAA - Limited Access Authorizations for Non-U.S. Citizens – DCSA can work with foreign businesses/governments/individuals to get limited access to controlled information.**
- **FSC (Facility Security Clearance) – allows foreign citizens and subcontracting companies access to U.S.-based controlled facilities.**

Compliance with the Federal Acquisition Regulations (FAR)

- The FAR governs nearly every aspect of U.S. government contracting. For foreign companies, the FAR can be unfamiliar and unforgiving. Key compliance areas include:
- Representations and certifications, many of which are made under penalty of law
- Cost accounting and pricing rules, especially for cost-reimbursement contracts
- Mandatory disclosure obligations for certain violations
- Ethics and compliance program requirements
- Misunderstanding FAR obligations — as well as agency-specific FAR supplements — is one of the most common pitfalls for new entrants to the market.

Suspension, Debarment, and Responsibility Determinations

- To receive a federal contract, a company must be deemed *AND MAINTAIN* its status as 'responsible.' Past performance, integrity, compliance history, and internal controls all factor into this determination.
- What is a "responsible" contractor? FAR 9.104-1 General standards:

Contractor must-

(a) Have adequate financial resources, or ability to obtain them, to perform the contract;

(b) Comply with the required or proposed delivery/performance schedule, taking into consideration all existing commercial and governmental business commitments;

(c) Have a satisfactory performance record, but a prospective contractor shall not be determined responsible or nonresponsible solely on the basis of a lack of relevant performance history;

(d) Have a satisfactory record of integrity and business ethics;

(e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or ability to obtain them ;

(f) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and

(g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations (see also inverted domestic corporation).

- **WHY SHOULD YOU CARE?** Debarment or Suspension can lead to not only expensive and protracted administrative cases and loss of current and/or future contracts with the U.S. Government but also lead to civil and criminal investigations. This is also published on a list and can have commercial reputational damage.

Responsibility – Foreign Company Considerations

- **Foreign companies should be aware that:**
  - **Responsibility determinations are discretionary and highly fact-specific.**
  - **Compliance failures — anywhere in the corporate family — can affect eligibility.**
  - **Suspension or debarment can be imposed based on conduct that occurred outside the United States.**
  - **Proactive engagement and transparency are often critical when issues arise.**

Practical Market Entry Strategies

- **Foreign companies seeking to enter the U.S. government market often benefit from a phased approach:**
  - **Start as a subcontractor to gain experience with FAR compliance and develop past performance**
  - **Partner with experienced U.S. contractors through teaming agreements**
  - **Establish a U.S. presence to streamline contracting and compliance**
  - **Invest early in compliance infrastructure, including training and internal controls**
  - **Success in this market is rarely immediate, but it can be durable and lucrative for companies that navigate the rules effectively.**

Conclusion



The U.S. government contracts market offers significant opportunity for foreign companies — but it is not a market that rewards casual entry.



Domestic preference laws, national security concerns, complex regulations, and aggressive enforcement make careful planning essential.



Foreign companies that invest early in legal strategy, compliance systems, and informed market entry structures are best positioned to compete successfully and sustainably in this highly regulated environment.

What is CFIUS and its Mission?

- **Committee on Foreign Investment in the United States: Interagency Committee that is Chaired by Department of Treasury**
  - **Representatives from several agencies with including DOD, DHS, DOE, DOJ, and State**

- **Empowered to review investments in U.S. businesses by non-U.S. persons or entities for national security considerations**
  - **U.S. Business can include a U.S. subsidiary of a foreign parent**
  - **Reviews occur pursuant to both mandatory and voluntary submissions**
  - **Most filings with CFIUS are voluntary**

Evaluating CFIUS in a Transaction

- **If CFIUS has jurisdiction over a transaction, then it retains the right to review the transaction at any point (including post-closing) absent the parties receiving clearance from CFIUS.**

- **Jurisdiction does not automatically mean parties need to or should file, and most filings with CFIUS are voluntary.**

- **CFIUS analysis and review can create significant lead times in deals, so early review is critical to prevent delays for closing.**

Key Terms

- **Foreign Person: Any foreign national, foreign government, or foreign entity, or any entity over which control is exercised or exercisable by such entities.**

- **Control: Power, direct or indirect, whether or not exercised, to determine direct, or decide important matters affecting an entity.**

- **Critical Technologies: This includes defense articles controlled by the International Traffic in Arms Regulations (ITAR) and certain dual-use items controlled by the Commerce Control List (CCL), among other categories such as agents/toxins.**

- **TID U.S. Business: U.S. business that meets any of the following**
  - **Produces, designs, tests, manufactures, fabricates, or develops critical technologies (see above)**
  - **Performs functions related to critical infrastructure**
  - **Maintains or collects sensitive personal data of U.S. citizens**

When Can CFIUS Come Into Play?

"Control" Transactions

(CFIUS always has jurisdiction)

- Foreign person acquires control over a U.S. Business
- May trigger mandatory filing requirement depending on U.S. business

Covered Investments

(CFIUS may have jurisdiction)

- Non-controlling investment by foreign person in U.S. business
- U.S. business must qualify as a "TID U.S. Business"
- Foreign person must receive additional rights (i.e., Board seat)
- May trigger mandatory filing requirement depending on U.S. business

Covered Real Estate

(CFIUS may have jurisdiction)

- Foreign person acquires real estate in the U.S.
- Real estate in proximity to identified locations in CFIUS regulations
- Foreign person must receive certain rights to the real estate
- Always voluntary

Types of Filings: Mandatory & Voluntary

Mandatory Filings: Parties must file with CFIUS in two scenarios

1. **Foreign person acquires substantial interest in TID U.S. business and a foreign government holds a substantial interest in that foreign person.**
2. **Foreign person acquires substantial interest in TID U.S. business that produces, designs, tests, manufactures, or develops critical technologies and U.S. regulatory authorization is required for export of that critical technology**

Deadline: file at least 30 days before closing (declaration or notice). Missing it risks significant civil penalties; parties are jointly and severally liable.

Voluntary Filings: No legal deadline, but timing matters

1. **Typical timing: file after signing and before closing, so clearance arrives before the deal closes.**
2. **After closing (even years later) is allowed, but CFIUS has no time limit to review an unfiled deal and can require mitigation or divestment.**

Benefit: clearance gives a "safe harbor" against future CFIUS review.

CFIUS Filing Processes and Outcomes

- **Two ways to file (either works for mandatory or voluntary filings):**
  - **Short-Form Declaration**
    - CFIUS has 30 days to respond, counted from when it accepts the filing; no fee
    - Possible results: cleared; asked to file a full Notice; “unable to conclude” (no clear answer); or CFIUS opens its own review
  - **Long-Form Notice**
    - Step 1: 45-day review, counted from acceptance
    - Step 2, if needed: 45-day investigation (one 15-day extension in extraordinary cases)
    - Step 3, rare: 15 days for the President to decide
    - Longer, more information, filing fee based on deal value, but ends with a clear answer
- **If concerns remain: mitigation agreement or, in extreme cases, the deal is blocked**

U.S. Export Controls and Sanctions

- **Two questions for every deal: Is my product controlled? Is my counterparty restricted?**
- **How U.S. law reaches an Israeli company**
  - **U.S. persons, U.S. territory, U.S.-origin content, U.S. dollars**
- **Three regimes**
  - **ITAR (military items) | EAR (commercial and dual-use) | OFAC sanctions**
- **Putting it together**
  - **One transaction, three checks**

How U.S. Law Reaches an Israeli Company

Four “hooks” bring a non-U.S. business within U.S. export controls and sanctions rules. Triggering just one is enough.



U.S. Persons

U.S. citizens and green-card holders; people located in the U.S.; U.S.-incorporated companies, incl. foreign branches.



U.S. Territory

Anything touching U.S. soil: U.S. offices and staff, goods transiting the U.S., U.S. servers or routing.



U.S.-Origin

U.S. items wherever located; foreign items above the de minimis share of U.S. content; items made with U.S. tech or tools.



U.S. Dollars/Banks

Dollar payments clear through U.S. banks, which pulls the transaction into U.S. jurisdiction.

How These Rules Impact Your Business

Six routine business moments that illustrate triggering events for U.S. export control or sanctions rules.



Hiring

➢**You hire a talented engineer from abroad for your U.S. office.**

Risk: Giving them access to controlled designs can be a "deemed export" that needs a license.



Collaborating

➢**Engineers share drawings by email, cloud folder or screen-share.**

Risk: Sending technical data can be an export, even if no product moves.



Sourcing

➢**Your team designs in a U.S. chip, module or code library.**

Risk: That U.S. content can follow your product worldwide and limit where you can sell it.



Getting Paid

➢**You invoice a customer in U.S. dollars.**

Risk: Dollar payments clear through U.S. banks, which can freeze funds tied to sanctioned parties.



Selling

➢**You sign a new distributor in India.**

Risk: If your product is diverted to Russia or Iran, you may be the one held responsible.



Raising Money

➢A U.S. fund invests, or a U.S. buyer looks at acquiring you.

Risk: Investors and buyers check export compliance closely. Gaps can delay or kill the deal.

Importance of Legal Compliance



Protect the Business

Risk: Fines of $1M+ per violation, criminal prosecution, personal liability for executives

Impact: Frozen payments, held shipments, costly investigations



Preserve Market Access

Risk: Denial of export privileges or debarment from defense trade

Impact: Loss of access to U.S. technology, components, and customers



Safeguard Reputation & Growth

Risk: Lost confidence of investors, banks, and partners

Impact: Harder fundraising, delayed exits, and lost partnerships

Bottom Line: For Israeli companies, U.S. compliance is a condition of doing business with U.S. parties, including investors, suppliers, and customers.

What Counts as an "Export"?

Under U.S. rules, an export doesn't need a shipment or a border crossing. Sharing information can be enough.

Export

Sending an item, software or technology out of the U.S., by shipment, email, download, upload, or cloud access.

Example: A U.S. supplier ships a controlled sensor to your Haifa plant.

Deemed Export

Releasing controlled technology or source code to a foreign national inside the U.S., *e.g.*, by showing, telling or giving access.

Example: An Israeli engineer at your New York office opens controlled design files.

Reexport

Sending U.S.-origin items, or foreign items with enough U.S. content, from one foreign country to another

Example: Your Israeli system with a U.S. component is sold to a customer in India

Transfer

Changing the end user or end use within the same country (ITAR: "retransfer"; EAR: "in-country transfer")

Example: A licensed Israeli end user passes the item to a different Israeli company.

ITAR adds defense services: training, integration, or technical help to a foreign person on a defense item is regulated, even if nothing is shipped.

ITAR: Military Items and Know-How

Regulator: The Directorate of Defense Trade Controls (DDTC) | **Focus:** U.S. Munitions List (USML) 21 categories

What is Covered:

Defense Articles	Technical Data	Defense Services
Defense items, parts, and software, incl. components "**specially designed**" for military use	Drawings, specs, source code, and engineering knowledge for defense items	Training, integration, repair, or technical help given to foreign persons

What Counts as an "Export":

1. Shipping a defense item out of the U.S.
2. Sharing technical data with a non-U.S. person, even inside the U.S.
3. Providing a defense service, even if nothing is shipped.
4. Re-exporting or transferring U.S.

Who Must Register: Manufacturers of defense items (even if they never export), exporters, and brokers. Licenses or other approvals are needed for each export.

Why it Matters for Israeli Business: ITAR follows U.S. parts and data into your systems. An Israeli platform with a U.S. ITAR component may need U.S. approval to sell to a new customer.

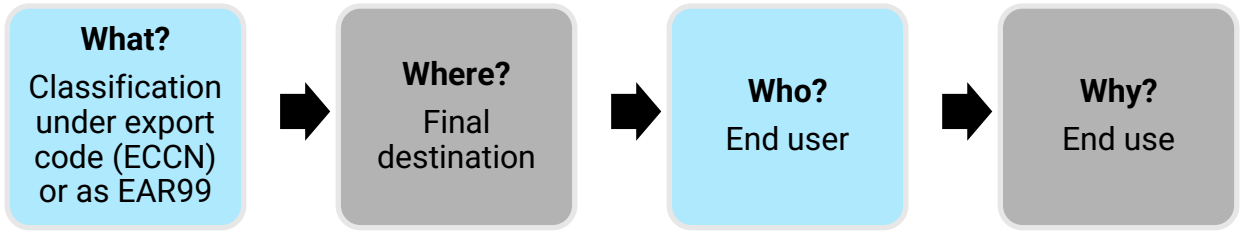
EAR: Commercial and Dual-Use Technology

Regulator: U.S. Commerce Department Bureau of Industry and Security (BIS) | **Focus:** Commercial and "dual-use" items, software, and technology

Step 1: Is it subject to the EAR?

- Anything in the U.S.
- U.S. origin items, anywhere in the world
- Foreign-made items with more than a de minimis amount of U.S. content: **10%** for embargoed countries; **25%** for others
- Certain foreign items made with U.S. tech or tools ("foreign direct product" rules)

Step 2: Four questions decide whether you need a license



Possible Outcomes:

- License Required
- License Exception Applies
- No License Required

"EAR99" ≠ Unregulated: even uncontrolled items can need a license based on destination, end user or end use.

Why it Matters for Israeli Business: Your product doesn't have to be made in the U.S. to be covered. U.S. chips, code, or tools in Israeli products can bring them under the EAR.

EAR in Practice

THIS COULD BE YOU | Hypothetical



Why it's a problem: over 10% U.S. content brings the software under the EAR, and Cuba is embargoed.

Your exposure: if you knew or had reason to know where it was going, the onward sale can be your violation.

IT HAPPENED | Real enforcement case

Cadence Design Systems (2025)

What	Chip-design tools reached a Chinese military university on the Entity List through an alias.
Who	Cadence (U.S.) and its China subsidiary
Outcome	Guilty plea; more than $140M in DOJ and BIS penalties

Key Takeaway: Know your end user and where the product ends up. Distributors, aliases and subsidiaries don't shift the risk.

Sanctions: Parties and Locations

Regulator: U.S. Treasury Department, Office of Foreign Asset Controls (OFAC)| **Focus:** Countries, people, and companies

Who Must Comply

U.S. citizens and green-card holders, wherever they are

U.S. companies and their foreign branches

Anyone in the U.S., incl. U.S. offices of Israeli companies

Non-U.S. companies that cause a violation, *e.g.*, through USD payments via U.S. banks

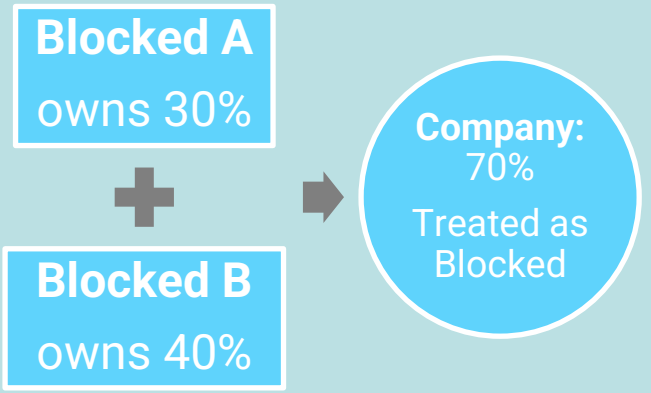
Country-Based Sanctions

Comprehensive
Cuba, Iran, North Korea, Crimea / Donetsk / Luhansk regions

Broad/Significant
Russia, Belarus, Venezuela, Burma (Myanmar)

Programs change often; check before every transaction

List-Based & 50% Rule



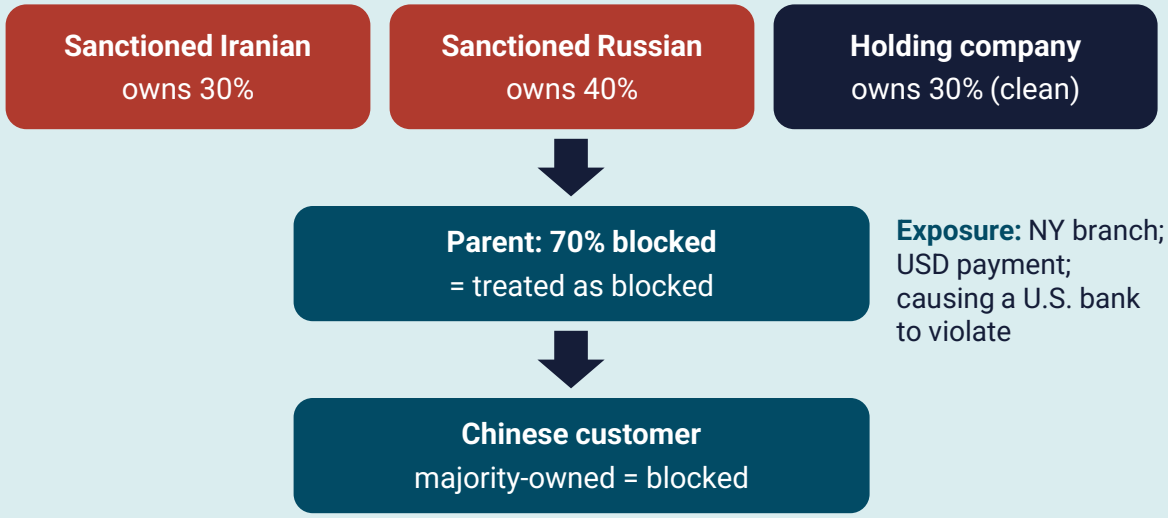
Stakes held by blocked owners are added together. Screen **owners**, not just names.

Key Takeaway: A transaction can break sanctions rules even when the product is uncontrolled. Check the counterparty, its owners, the banks and the payment route.

Sanctions in Practice

THIS COULD BE YOU | Hypothetical

Israeli tech company with a New York branch sells to a Chinese manufacturer. SDN check: **no match.**



Exposure: NY branch; USD payment; causing a U.S. bank to violate

IT HAPPENED | Real enforcement case

GVA Capital (2025)

What	A U.S. venture firm kept managing a sanctioned Russian oligarch's money through a nominee.
Who	GVA Capital Ltd., San Francisco
Outcome	About $216M OFAC penalty, the statutory maximum

Key Takeaway: Screen who really owns and controls a counterparty, not just the name on the contract.

Which Regime to Assess

THE TRANSACTION

Example: A U.S. subsidiary of an Israeli defense-tech company sends a software update to a foreign customer who bought the technology years ago.

ITAR
State Dept.

- ✓ On the U.S. Munitions List?
- ✓ Is a defense service involved?

EAR
Commerce Dept.

- ✓ ECCN or EAR99?
- ✓ Do destination, end user or end use require a license?

OFAC
Treasury Dept.

- ✓ Customer, owners or country sanctioned?
- ✓ Any issue with banks or payment route?



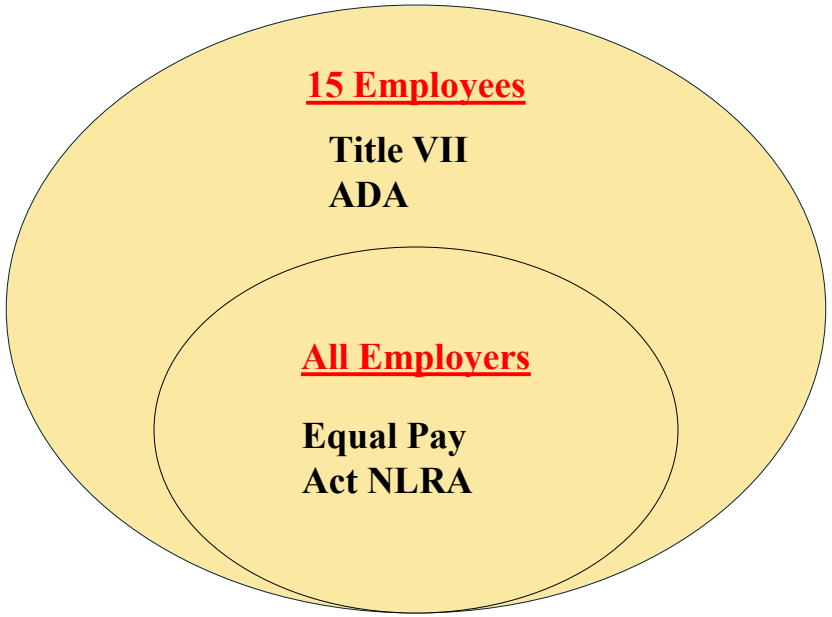
Only proceed if all three are cleared

Federal Employment Laws

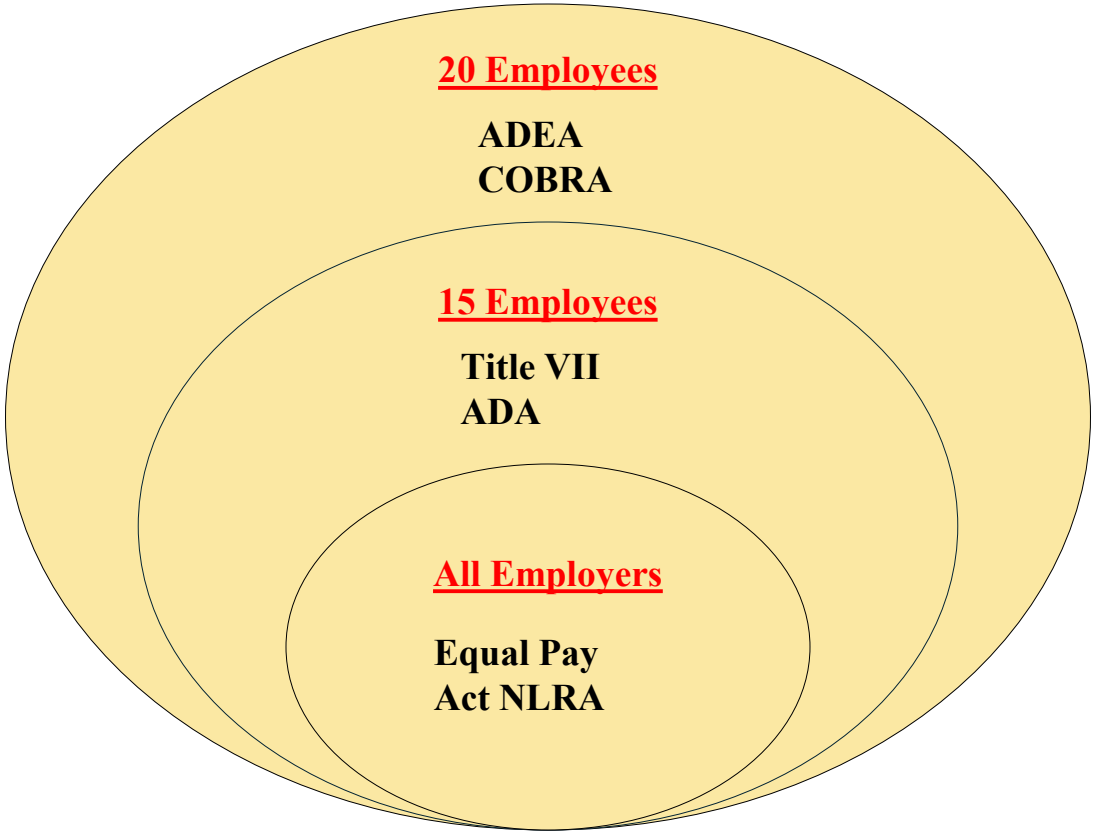
All Employers

Equal Pay Act NLRA

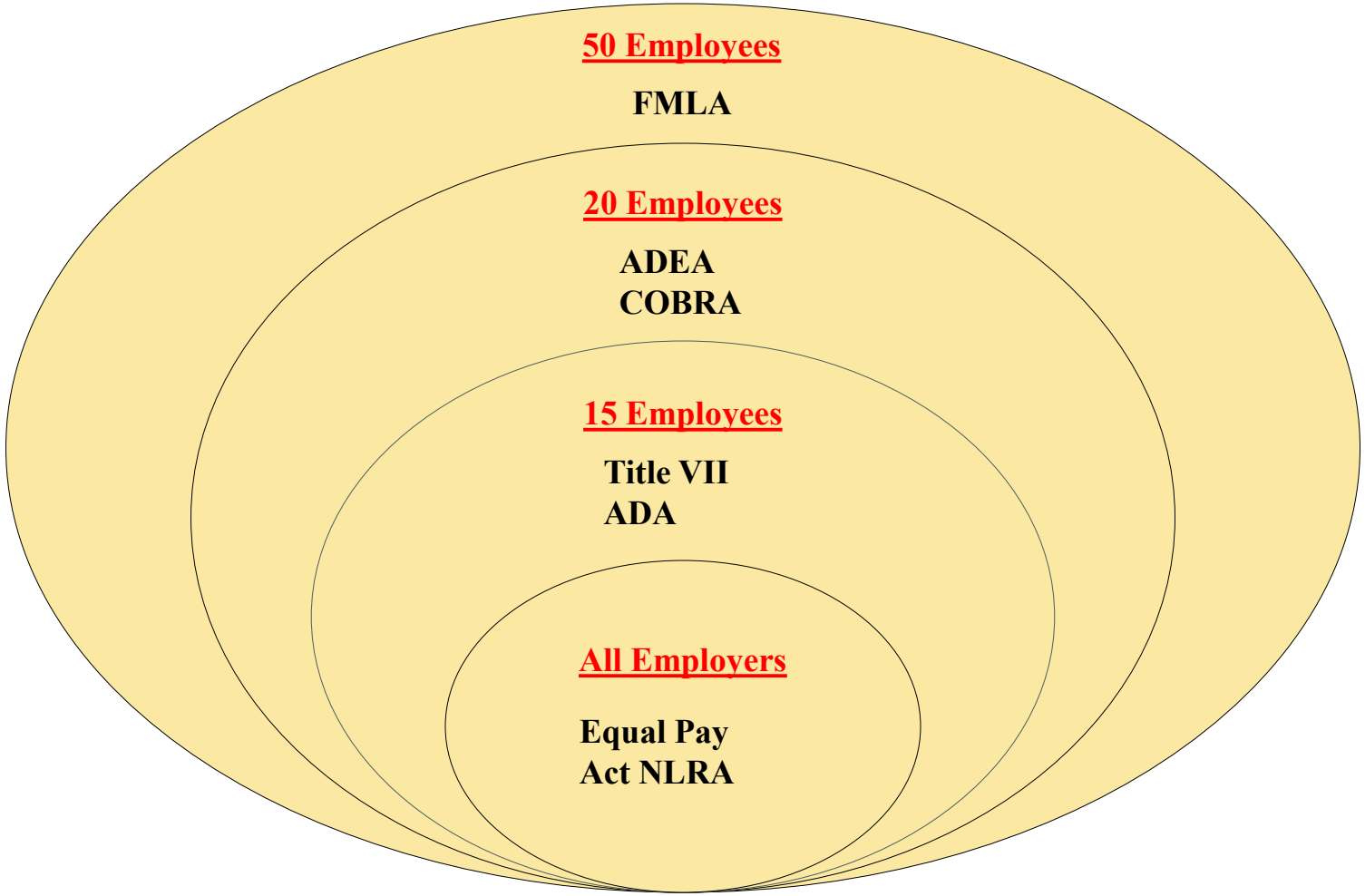
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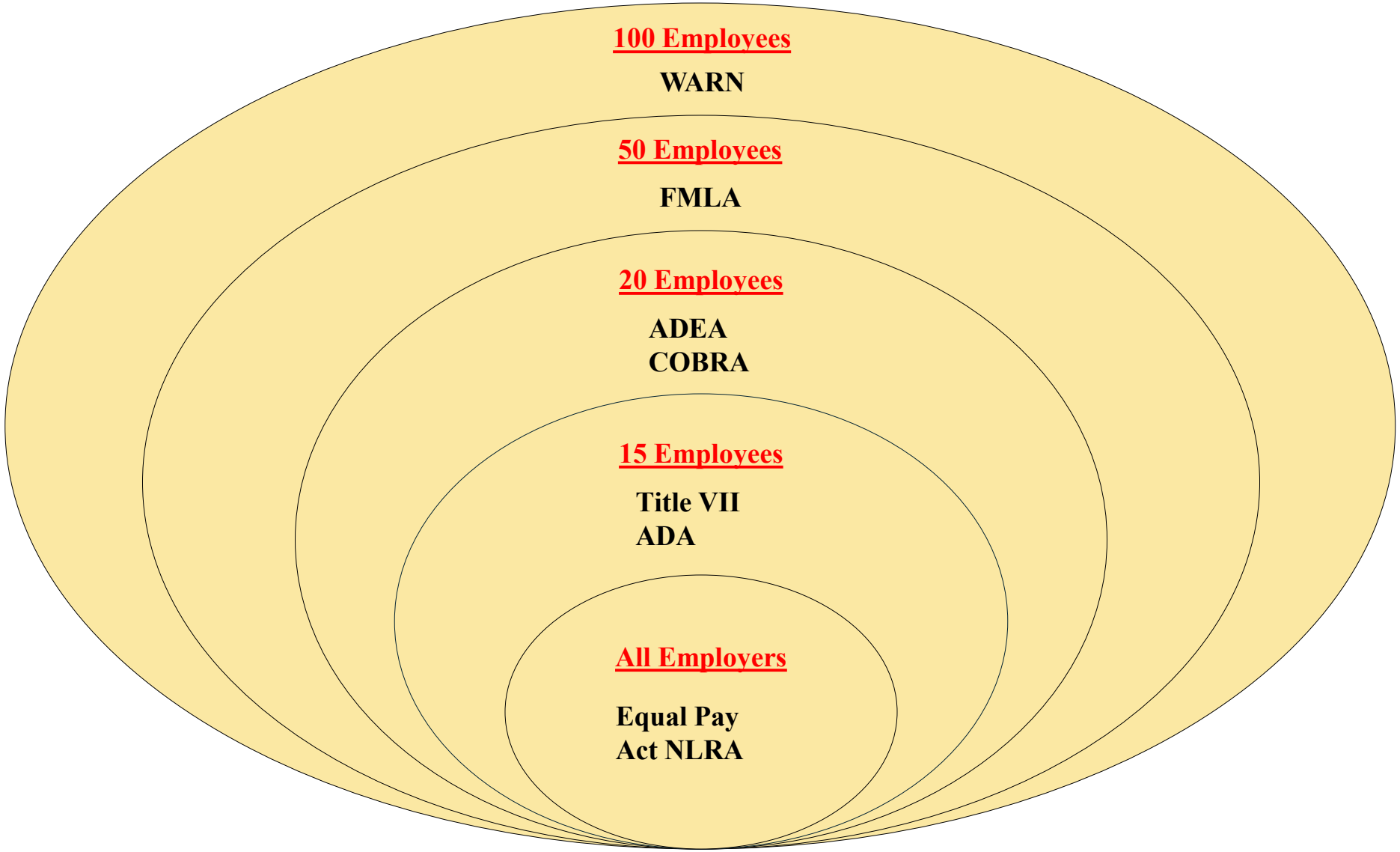
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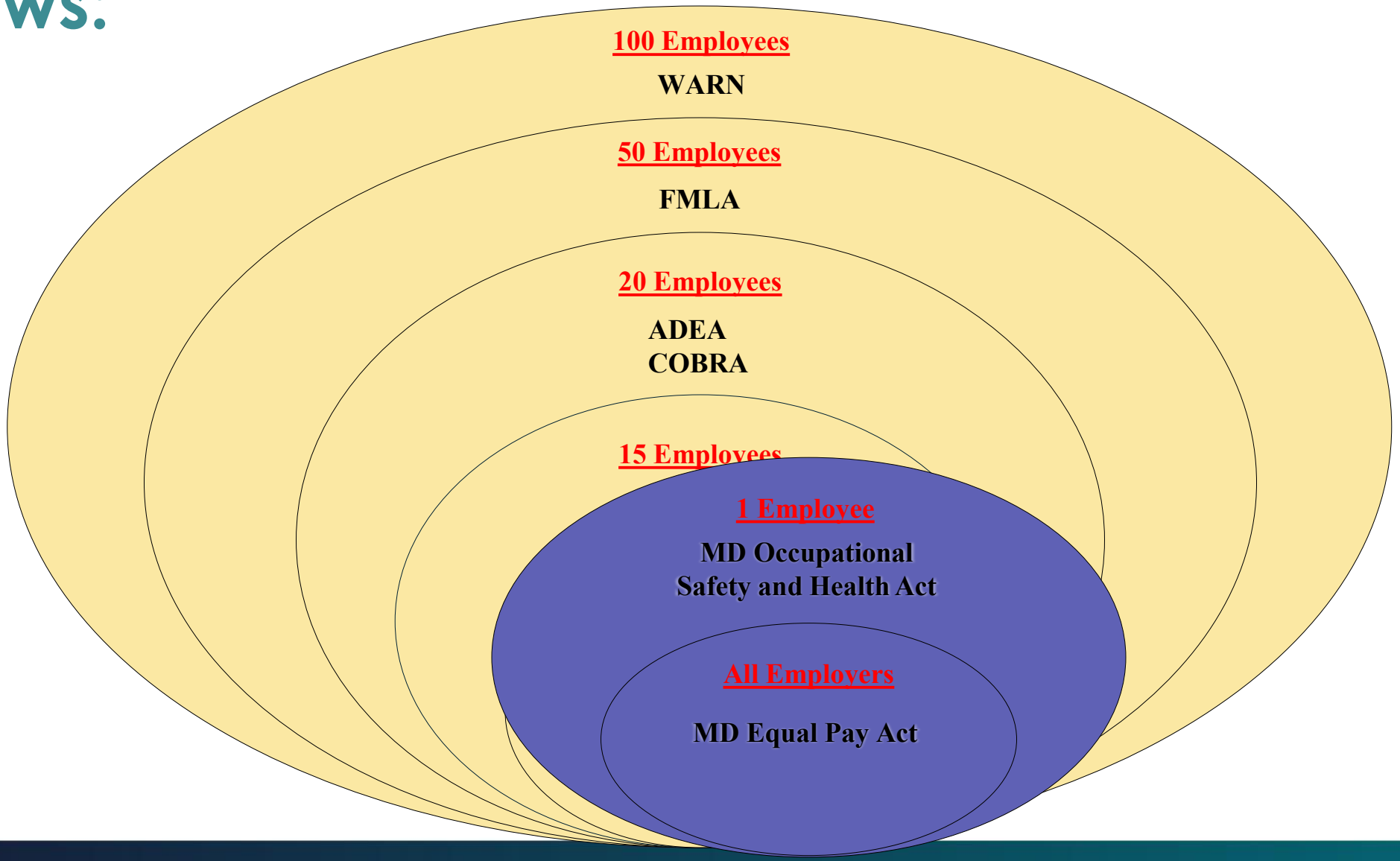
Federal Employment Laws



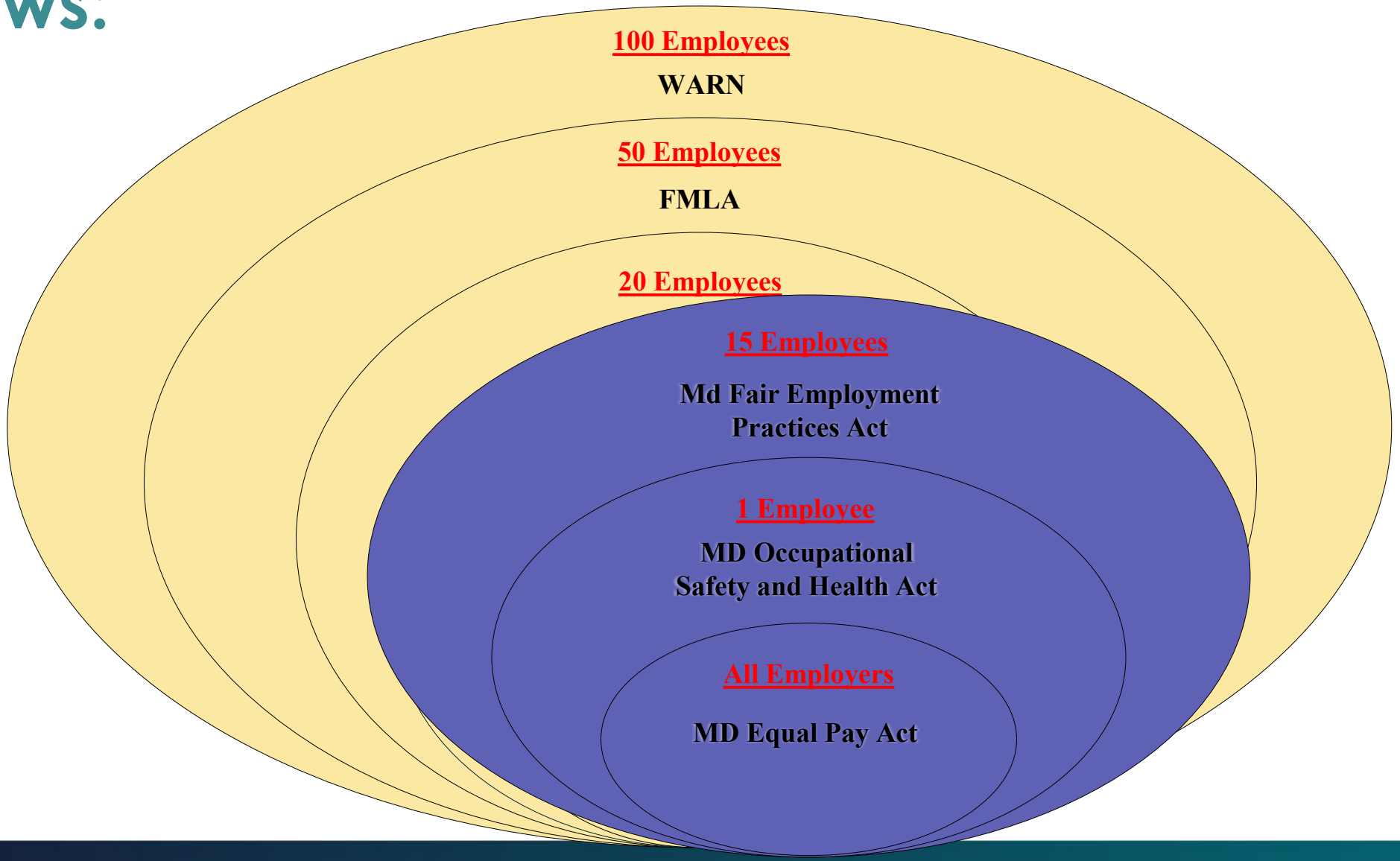
Federal Employment Laws



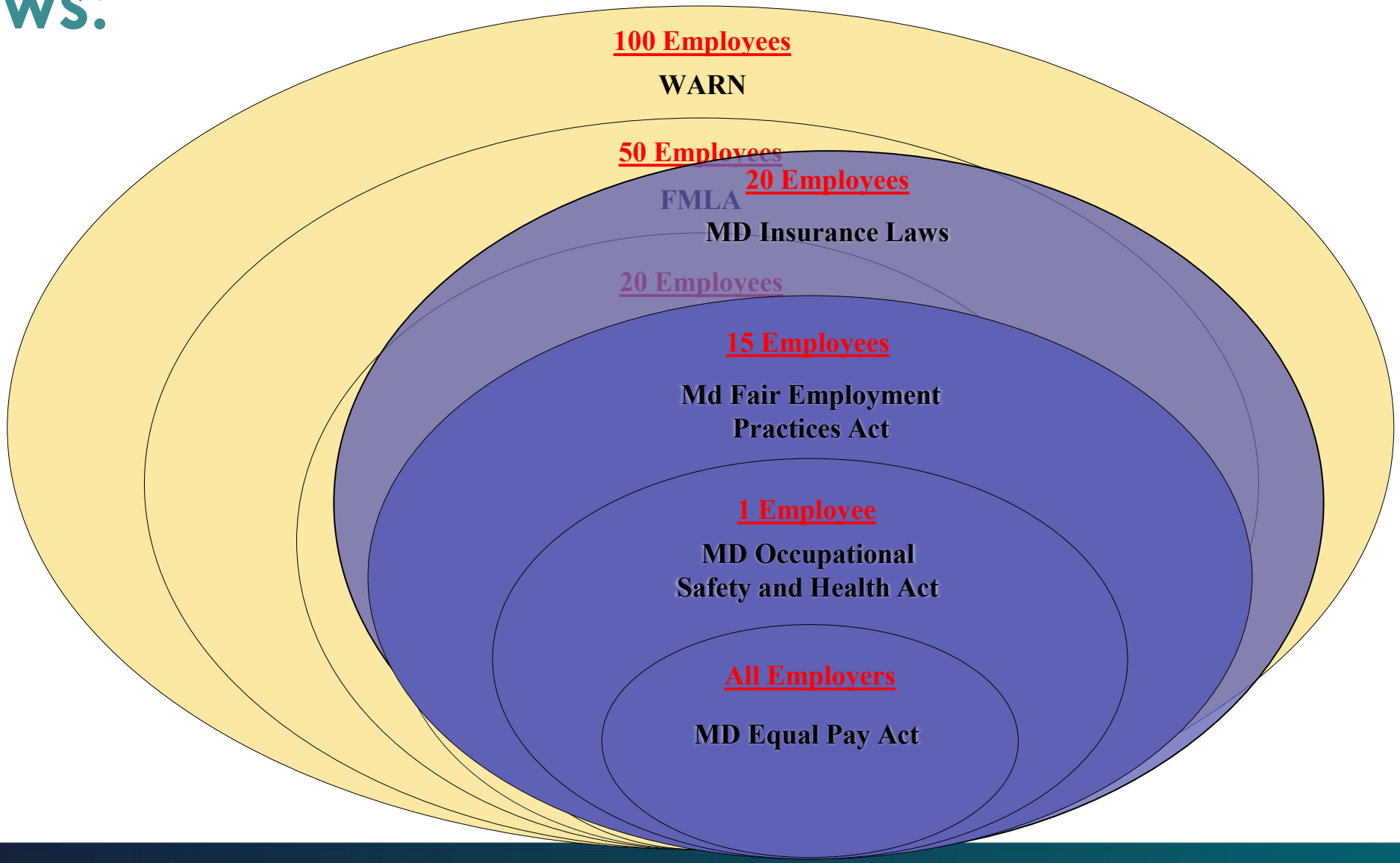
Selected State Laws:



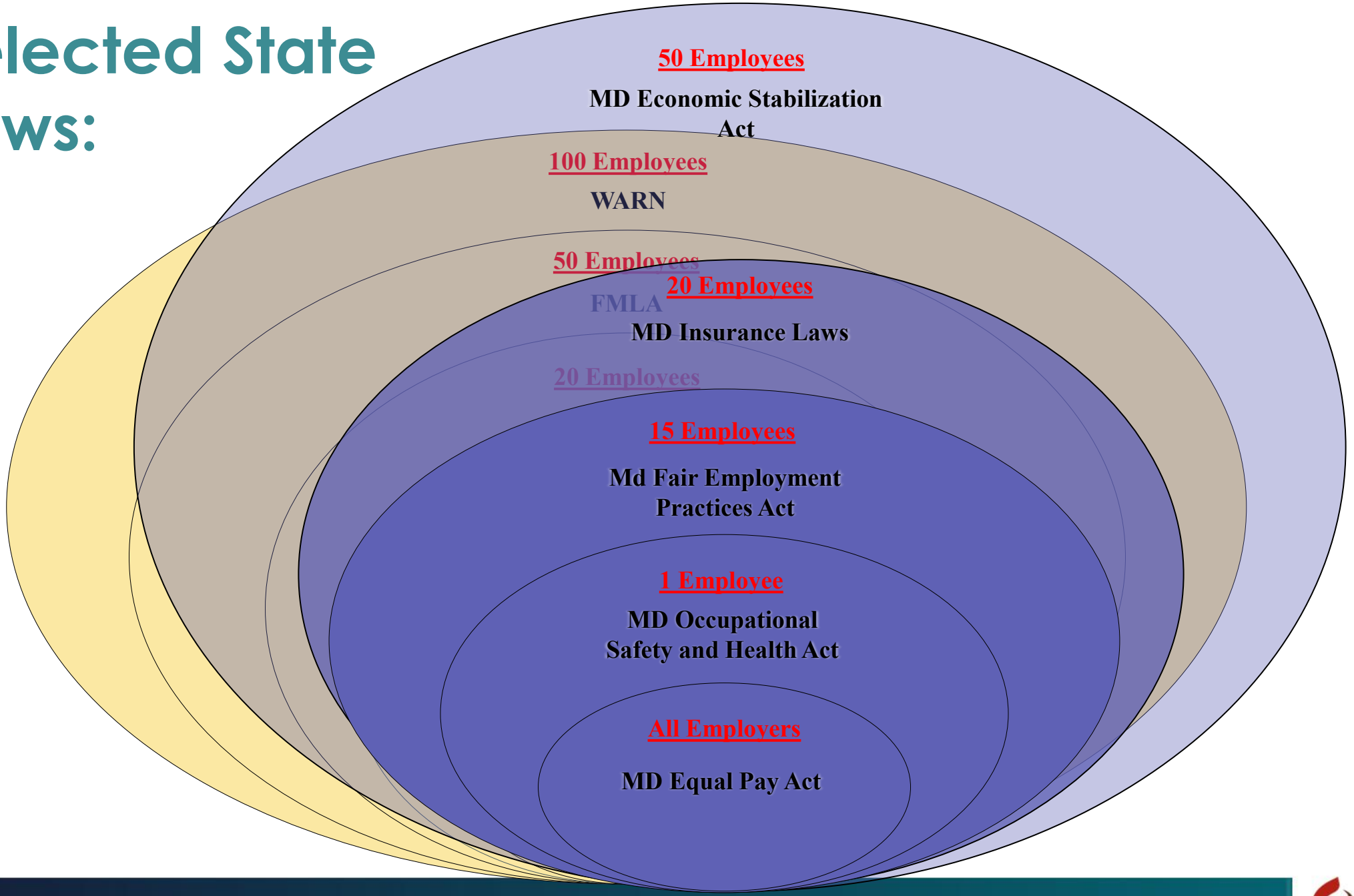
Selected State Laws:



Selected State Laws:



Selected State Laws:



The FLSA

- **Minimum Wage**
- **Premium Pay/Overtime for Non-Exempt Employees**
- **If Non-Exempt, overtime > 1.5x regular rate for hours over 40 per work week**

Exemption Categories

- **Executive**
  - **-Primary duty is management, supervise at least 2 employees, authority for personnel decisions**
- **Administrative**
  - **management/operations plus independent judgment on significant matters for the business**
- **Professional**
  - **advanced knowledge in learned profession typically from graduate studies**

All exemptions require:

- **Salary basis**
- **Above threshold salary amount**
- **Performance of qualifying duties**

- **Special rules for "computer employees," "outside sales employees," licensed lawyers and physicians**
- **Outside sales employees, qualifying teachers, and licensed lawyers and physicians practicing generally are not subject to the ordinary salary threshold.**

Misclassification Exposure

- **Unpaid overtime**
- **Liquidated damages absent a statutory good-faith showing**
- **Mandatory attorneys' fees and costs**
- **Additional penalties for repeated or willful violations**
- **Potential individual liability for decisionmakers**

Don't forget about STATE laws and enforcement mechanisms

Wage-Payment Laws

- **Governed by STATE Law in each state**
- **Frequency of payments**
- **Timing of payments**
- **Final pay timing**
- **Vacation pay at end of employment**
- **Wage statements**

Examples of State Law Variance

State	Regular pay	Final pay	Vacation/PTO	Selected exposure
California	Generally twice monthly; detailed itemized statements	Immediate upon discharge; within 72 hours after resignation unless 72 hours' notice is given	Accrued vacation treated as wages and paid at separation	Waiting-time penalties may continue up to 30 days for willful late final pay; separate wage-statement penalties
Illinois	Generally at least semimonthly; payment timing varies by pay period	At separation if possible, but no later than next regular payday	Earned vacation under an employer policy is final compensation and must be paid	Underpayment plus 5% per month; additional administrative and statutory penalties may apply
New York	Varies by worker type; manual workers generally weekly, clerical/other workers generally semimonthly	Regular payday for the pay period in which termination occurred	Payout generally governed by the employer's written policy	Liquidated damages, interest, fees, and wage-notice/statement penalties may apply
Texas	At least twice monthly for nonexempt employees; exempt employees may be paid monthly	Discharge: within six calendar days; resignation: next regular payday	Payable only if a written agreement or policy provides for payment	TWC process; bad-faith penalty may be imposed in addition to unpaid wages

For more information, please contact Sam Feigin, Chair of Cozen's Israel Practice

sfeigin@cozen.com
202-280-6470

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