

FAQs for Association Board Members

09/30/24

Questions About the CTA and its Purpose	
What is the purpose of the CTA? Why is the government making us do this?	<p>Congress adopted the CTA to empower FinCEN to compile a database of U.S. companies and their beneficial owners. FinCEN is doing this through the process of collecting beneficial ownership information (BOI) reports. These BOI reports will enable FinCEN to assemble a massive database of beneficial ownership information. FinCEN will use its database to fight money laundering in cooperation with other U.S. law enforcement agencies. Although the FinCEN database will not be publicly available, FinCEN will make the database accessible to U.S. law enforcement agencies, U.S. financial institutions and some non-U.S. law enforcement agencies.</p>
Who will be able to see the data in my Association's BOI report?	<p>FinCEN will keep the BOI data in a confidential database that will only be accessible by law enforcement agencies and financial institutions. FinCEN is required by law to keep its database confidential and secure.</p>
I heard that a court held that the CTA was unconstitutional.	<p>There are several lawsuits pending involving the CTA. The U.S. District Court for the Northern District of Alabama held the CTA to be unconstitutional, and that decision is now on appeal. In contrast, the U.S. District Court in Oregon issued a ruling that upheld the constitutionality of the CTA.</p> <p>While the legal processes of these and other lawsuits will continue, with appeals likely going to higher courts over the</p>

	<p>next months or even years, the Oregon decision makes it unlikely that any nationwide injunction against the CTA will happen before the end of the year.</p> <p>For those who were waiting to see the outcome, there's no longer a reason to delay any action.</p>
<p>Where can I find more information about the CTA?</p>	<p>You can read the statute here.</p> <p>You can read FinCEN's implementing regulations here.</p>
<p>What might happen if my Association doesn't file, or fails to file on time?</p>	<p>The CTA contains serious penalties for non-compliance. A reporting company that fails to file a beneficial ownership report (or a required amendment) when due is subject to a \$500 per day fine up to a maximum of \$10,000. A willful failure to file a report when due or an intentional filing of inaccurate information is punishable as a felony by up to two years imprisonment. A willful violation in combination with other anti-money laundering violations can result in an amplified penalty of up to ten years imprisonment.</p>
<p>What should my Association do if one of our beneficial owners refuses to cooperate?</p>	<p>You should consult an attorney.</p> <p>Your Association will not be able to file an accurate BOI report until every beneficial owner provides their personal data. One uncooperative beneficial owner prevents the Association from filing an accurate BOI report.</p> <p>The uncooperative beneficial owner may have personal criminal liability for refusing to cooperate.</p> <p>In many cases the Association and its cooperating beneficial owners will be best served by expelling the uncooperative beneficial owner from the role that caused them to be a</p>

	beneficial owner. Your Association may need legal advice from an attorney in such a situation.
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Questions About Associations & Compliance

Who are the beneficial owners of my Association?	If your Association is organized as a non-profit corporation under state law, its beneficial owners will include its board of directors and its senior officers (President, CEO, CFO, COO).
How can I tell if my Association is tax-exempt under IRC Sec. 528 or 501(c).	<p>As your attorney or tax preparer for help.</p> <p>An Association that is covered by IRC Sec. 528 files tax returns on IRS Form 1120-H.</p> <p>An Association that is exempt under IRC Sec. 501(c) will file an annual return on IRS Form 990.</p>
Does the CTA apply to Homeowner Associations, Condo Associations and Community Associations?	Yes. The CTA applies to any limited liability company or corporation, including non-profit corporations. More than 99% of Homeowner Associations, Condo Associations and Community Associations are organized as non-profit corporations.
Do Associations that are not Incorporated need to file?	No. An unincorporated association is not a "reporting company" for purposes of the CTA. As a practical matter, however, an Association that is going to rely on this analysis should obtain a legal opinion from an attorney before declining to file a BOI report.
Our Association is very small. Do we still need to file?	Yes. There is no exemption for small Associations.

<p>What if you have an association and there are no active board members?</p>	<p>If there is an Association with no board members and no senior officers, you should consult an attorney.</p>
<p>For the association, would the current street address of the principal place of business be the physical address of the association, or the management company's address?</p>	<p>A reporting company should report a street address where it receives mail as its principal place of business. If a reporting company has no principal place of business, then it should report the address of the location where it can accept service of process. In some jurisdictions, this may be the address of the reporting company's registered agent and may also be called the "registered office."</p>
<p>How/where do you find the formation date of the association? I've seen it on tax returns but for confirmation?</p>	<p>An Association's formation date will be reflected in the records of the Secretary of State in the state of formation. It will be the date on which the original charter or articles of incorporation were filed.</p>
<p>If I read correctly, as a Management Company/Community Manager we can be held liable for false information "file" for the board. Does your system take that responsibility away from the Management Company or Manager?</p>	<p>A management company is not legally responsible for the accuracy of an Association's BOI report.</p>

Who gets fined for non-compliance? The Management company? The Board Members?	An Association's senior officers have personal, criminal liability to ensure that the Association timely files its BOI report. If an Association is late, the Association may suffer civil money penalties of approximately \$500 per day.
Who is legally responsible to make sure the Board is registered? If they have a management company, does it fall on them? What if Board's do not want to submit their information, are they not permitted to serve?	There is no such thing as a Board being registered. Under the CTA, the senior officers of the Association will have personal criminal liability to ensure that the Association timely files its BOI report.
How do you plan on helping when a Board member will not file? You're not going to be able to submit if you do not have all members correct?	The Association must file a complete BOI report with the required information from all beneficial owners. If a beneficial owner will not cooperate, they may be subject to criminal sanctions under the CTA. In that situation the Association should consult an attorney.
You say you have to kick the board member off the board if they do not want to participate. In AZ the Board does not have the authority to remove a Board member.	If a board member will not cooperate, the Association should consult an attorney.

There are Board Members who will step away if they will have to file. Any thoughts?	The Corporate Transparency Act is a federal law administered by the U.S. Treasury. Compliance is not optional.
If a board member fails to provide information, what happens? Do they get reminders from FinCEN Report? Or is it the management company's responsibility to manage compliance?	The Association's Administrator's will be able to track the status of each beneficial owner's progress inside the Association's account.
If a board member quits, will the board be non-compliant due to having a position open?	If a board member resigns, the Association will need to file an amendment to its BOI report within 30 days to reflect the change in beneficial owner. The CTA does not require that an Association have a particular number of board members.
What if half the board wants to register directly on fincen.gov and the other half the board goes through FinCEN Report?	That is not possible. The Association is the entity that must file a BOI report. Individual beneficial owners do not file anything on their own.
We don't want to be responsible for board members' personal information. Our association attorney is recommending that the board members obtain their own FinCen	If an individual has a FinCEN Identifier, they may enter that number into their personal account in lieu of entering their personal identifying information. It is not necessary to have a FinCEN Identifier to use the FinCEN Report System.

number, and just provide that to us to include on the BOI report. How would that work with your process?	
Will each BOD member receive their own FinCEN number - like a TSA number?	Individuals may obtain a FinCEN Identifier, a twelve-digit code that they may use for CTA reporting purposes. Doing so, however, obligates the individual to keep their FinCEN.gov account accurate with their personal information for the rest of the individual's life. The obligation to update the FinCEN.gov account never expires. If the individual fails to maintain its accuracy, the individual may be responsible for a \$500 per day fine.
If we have a board election in December, is it recommended that we wait until after the election to file the initial report?	No. We recommend filing before November in order to avoid potential Internet "traffic jams" and the unavailability of individuals during the November/December holiday season. If there is an election in December, the Association can easily file an amendment to reflect any change in beneficial owners.
What happens for board members that aren't allowed to provide personal information due to their military and/or government jobs??	We are not aware of any law that exempts individuals from providing their information when it is required for a BOI report under the CTA.
What if folks don't want to submit via the web, we have a very elderly community.	There is no way to use the FinCEN Report System without access to a computer with Internet access.

What if a board member does not have a driver's license or a passport?	Then they need to get one. There is no alternative to a driver's license or passport under the law.
Are board member term expirations tracked in the FinCEN Report system to alert the Admin of a need for amendment?	The FinCEN Report System does not track the terms of board members.
Are new board members automatically added from other systems to FinCEN Report?	At present, a change in an Association's data in an outside system is not automatically "pushed" into the FinCEN Report System. An Association Administrator should make changes in beneficial ownership directly inside the FinCEN Report System.
Do you have an estimate of the average time the partner administrator will utilize to complete this process?	It should not take more than 30 minutes for an Administrator to validate the Association's information and link the board members and senior officers via their email address in the FinCEN Report System. The Administrator will need to check on the progress of those individuals entering their personal information. Once their personal information is complete, the Administrator may file with a few clicks.
If the new management company for an association does NOT want to use your system, how would they file for future reports?	The Association is obligated to file a BOI report and maintain its accuracy by filing amendments.

If we take on an association in 2025 and find out they never filed, what should we do?	You should consult an attorney.
If a client moves to another management company, how does the new management company take over administration?	The Association Administrator may de-select the old management company contact and add the new management company contact as an "Advisor" through the "Add Member" function.
If a single HOA approaches FinCen Report for services, will they be charged \$5,000 for their dashboard?	No. Individual reporting companies may file through the FinCEN Report System by paying the annual subscription fee.

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Questions About Timing and Deadlines

My Association was formed before January 1, 2024. When does it need to file its initial BOI report?	No later than January 1, 2025. For convenience we often say, “by the end of 2024.”
My Association was formed during 2024, when does it need to file its initial BOI report?	Within 90 days after its date of formation. The “date of formation” is the date on which the Associations articles of incorporation were filed with the secretary of state.
If an Association is formed on or after January 1, 2025, when will it need to file its initial BOI report?	Within 30 days after its date of formation. Beginning January 1, 2025, newly formed reporting companies will have only 30 days from their date of formation to file an initial BOI report.
If my Association has a change in the data contained in a prior BOI report, when must it file an amendment?	Within 30 days after the change occurs. Note that it is not 30 days from the date when you “become aware” of the change, but rather 30 days after the change occurs.

<p>What kinds of changes in data will trigger the need for my Association to amend its prior BOI report?</p> <p>What if the only change in board position is the VP becoming the President.....does that need an amendment?</p>	<p>Any change in the data contained in the prior report.</p> <p>Examples include any change in the Association’s name, “doing business as” names, EIN, state of organization, or principal place of business.</p> <p>Examples involving beneficial owners include: any change in the Association’s board membership, any change in senior officers, or any change in the personal data reported for any beneficial owner.</p> <p>If there is any change in beneficial ownership, that change triggers the need to file an amendment. In your example, you are describing a change in beneficial ownership because "President" is a senior officer role while "Vice President" is not.</p>
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Questions About Beneficial Owners' Personal Data

<p>What information about a beneficial owner must the Association include in its BOI report?</p>	<p>For each beneficial owner, the BOI report must include the individual's (1) full legal name; (2) date of birth; (3) current residential street address; (4) a unique identifying number (which must be either a non-expired US driver's license or a non-expired US passport); and (5) a photocopy of the document that provides the unique identifying number (i.e., the driver's license or passport).</p>
<p>May the report use a beneficial owner's office address or business address?</p>	<p>No, it must be the residential address.</p>
<p>I own several homes. Which is my "residential address?"</p>	<p>For an individual with multiple homes, the "residential address" is the address where the individual sleeps most nights in a year. For most individuals in this situation, this residential address will also be the address identified as the residential address on the individual's federal income tax return.</p>
<p>If I am a beneficial owner of my Association and I renew my driver's license, does that trigger a need for the Association to amend its BOI report?</p>	<p>It depends. If the renewed driver's license has a new photograph and a new expiration date, those changes do not trigger the need for an amendment.</p> <p>But, if the renewed driver's license changes "the name, date of birth, address or unique identifying number" on the license, those changes do trigger the need for an amendment. 31 C.F.R. § 1010.380(a)(2)(v).</p> <p>In an abundance of caution, however, the FinCEN Report System will prompt a reporting company to file an amendment whenever a beneficial owner replaces their original identifying</p>

	document with a new identifying document. Since there is no additional charge for filing an amendment, doing so ensures that the reporting company does not inadvertently miss an amendment.
What is a FinCEN ID?	A FinCEN ID is a twelve-digit number an individual may obtain from FinCEN for use in identification. You do not need a FinCEN ID to use the FinCEN Report System.
I have a FinCEN ID. Does that matter if my Association files through FinCEN Report?	<p>If you have a FinCEN ID you may insert it into your personal account in the FinCEN Report System. If you do that, you will not need to insert your other personal details (like date of birth or residential address) into the FinCEN Report System.</p> <p>But, if you have a FinCEN ID, you are legally obligated to keep your FinCEN application (through the FinCEN government website) updated with your personal information at all times.</p>
Once the Association BOI report is filed, is any of this information made public to homeowners of the association?	No. The BOI report is held in confidence by FinCEN. The BOI report may only be viewed by certain law enforcement agencies and by financial institutions (and then only with the consent of the Association).
At termination of term, is my info deleted?	No, your information will not be automatically deleted. You may delete the information in your personal account at any time. But, if you delete or change your information while you are on the Board, it will appear to the Association as if there has been a change in your data that might trigger the need to file an amendment. Please note that if you are a beneficial owner of another organization, you can use your personal account to facilitate the CTA reporting for the other organization through FinCEN Report.

Do you delete old PII records?	No, we do not delete data. An individual may delete their own personal data at any time.
How do you remove your name when you are no longer on the board?	An individual may delete their own personal data at any time.



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Questions About the FinCEN Report System

Is FinCEN Report Company affiliated with the U.S. government?	No. We are a private company that provides filing services to assist Associations and other clients filing their BOI reports. FinCEN Report Company, LLC is a Georgia limited liability company.
Does FinCEN Report Company have a license from the U.S. government to perform its services?	Yes. FinCEN Report Company, LLC has received a letter of authorization from the U.S. Treasury to file BOI reports electronically through the U.S. Treasury's online filing system.
How is the FinCEN Report Company filing system constructed?	The FinCEN Report System is built on an encrypted web hosting service provided by Amazon Web Services. This is the same encrypted hosting service used by many banks and financial institutions. More than 2.3 million businesses use Amazon Web Services.
What is the average time it takes to enter a member into the FinCEN.org site.	Most individuals can log into the FinCEN Report System and enter their personal information in five minutes or less.
We'd like our attorney to look at the platform and determine what our liability is as offering and being the administrator. What is the best way to get the attorney all the	The Association Administrator may add the attorney as an "Advisor" by using the attorney's email address. With Advisor-access, the attorney will be able to see the information in the General Information tab of the Association's account.

information on this integration so they can advise us on our potential risk?	
Is data stored in the FinCEN Report System encrypted?	Yes. All data is encrypted (256-bit) both at rest and in transit.



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<p>How can I know that my personal data will be secure?</p>	<p>Given that sensitive personal information is uploaded and reviewed as part of our Corporate Transparency Act filing process, our system has been designed to provide control, accuracy, and confidentiality of personal identifiable information (PII) at the individual level from start to finish.</p> <p>FinCEN Report Company has adopted robust confidentiality and data security protocols that have been audited by an external audit firm, resulting in a SOC-II Type 1 certification.</p> <p>Founded by technologists and attorneys attuned with privacy protection technology and best practices, our system incorporates:</p> <p>Individual Information Lockers. Our FinCEN Report system only permits an individual to add, modify or delete the data in the individual's account. To support information accuracy, no entity or automation may modify or delete the PII in another individual's account.</p> <p>Personal Data Encryption. The beneficial ownership information (BOI) submitted remains encrypted until it is delivered to the Financial Crimes Enforcement Network (FinCEN) via their FinCEN API. Even the company administrator who files the report with FinCEN is unable to see the PII of those individuals whose data is included in the BOI report during the submission process.</p> <p>Data Integrity and Firewall-Protected System Security. The Compliance Hub™ that handles the data needed for filing is hosted and managed by Salesforce.com and Amazon Web Services (AWS) using the industry's most stringent security standards to ensure data integrity. In addition, firewalls protect all entry points into the system and are monitored by AWS and the technology team at FinCEN Report.</p>
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	<p>Image Encryption & Protection. The physical data (pictures) are stored in S3 and protected with 256-bit encryption. The encryption keys are maintained outside of the application software and managed by AWS.</p> <p>Database Management. The Compliance Hub™ uses cloud databases hosted in multiple availability zones to store all relevant information required for filing. All production databases are 256-bit encrypted to protect data. The databases support unlimited rollbacks and can be rolled back to any point in time and has 99.999% uptime durability.</p>
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Didn't see your question answered?

Pricing questions should be directed to your management company.

Submit other questions [here](#).

Please allow 2 business days for an answer.

