



Association Board Guide To The Corporate Transparency Act

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Homeowner Association Guide to the Corporate Transparency Act

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This publication provides a general overview of the Corporate Transparency Act and issues pertaining to homeowner associations, condominium associations and certain other residential real estate associations. This publication is not legal or tax advice. Readers should consult an attorney for any legal questions and a licensed tax preparer for questions regarding taxation.

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Forward

Why You Are on the Board

You volunteered to serve on the board of your homeowner association, condo association or other community association because you had an issue you cared about. Maybe you wanted to keep the lights turned on at the tennis courts until 10. Maybe you wanted to ensure they were turned off at 10. Maybe you want to ensure your community's property values. Whatever your issue was, you had an issue that you cared about that gave you a reason to volunteer your time on the board.

Now, however, the management company that handles your Association's accounting and other matters tells you about the Corporate Transparency Act. You hear you need to provide some personal information to the government, and it sounds like a big hassle.

I get it. Sometimes it seems like the government looks for ways to make life more difficult.

This guide is going to give you the most comprehensive (and yet concise) summary of the Corporate Transparency Act I can muster. I want to help you understand why your Association will need to file a report and what it means for you. I can't guarantee that the process I outline will make your work entirely hassle-free. But I can guarantee that this process will be easier (and safer) than any alternative process out there.

How to Read this Guide

If you are already familiar with the CTA and you understand what it will require from your Association, you can use this guide as a resource to answer questions that come up. If you just want to know what you need to do next, skip ahead to **Part 7 ("Quick Start: What to do Next")** and follow the instructions there. If you want a complete explanation of what the CTA is and how it applies to you, just keep reading.

Whether you skip ahead and read every page that follows, we appreciate you choosing to work with the FinCEN Report Company on your compliance journey.

Jonathan Wilson

About the Author



Jonathan Wilson is a leading legal expert on the Corporate Transparency Act. He is an attorney and corporate partner at Taylor English Duma LLP with 33 years of experience in corporate, M&A and securities matters. He is a former general counsel or chief legal officer of Web.com (NASDAQ: WWW) and EasyLink Services International Corporation (NASDAQ: ESIC).

Leveraging his deep legal expertise in the CTA, Jonathan authored the comprehensive The Corporate Transparency Act Compliance Guide (Lexis Nexis, 2023) and the Lexis Practical Guidance Practice Note on the Corporate Transparency Act.

Jonathan earned his undergraduate degree (Phi Beta Kappa) at The College of William and Mary and his J.D. (with honors) from The George Washington University.

He is a former member of the Board of Governors of the State Bar of Georgia and has been recognized by The Best Lawyers in America® 2017-2022, Georgia Super Lawyers, 2021-2024, and Georgia Trend's Legal Elite, Technology Law, 2010-2012, Corporate Law, 2013-2014, 2016, 2018, Business Law, 2018-2019.

FinCEN Report Company (www.fincenreport.com) is a private company based in Atlanta, Georgia. We assist companies in filing the BOI reports under the Corporate Transparency Act.

FinCEN Report Company was founded by Jonathan Wilson, Ken Gavranovic and Greg Frame.

Part 1. Introduction to the Corporate Transparency Act

An Introduction to The Corporate Transparency Act

At the end of 2020, Congress adopted the Corporate Transparency Act as part of its annual budget reconciliation process.¹ The CTA includes some of the most significant changes to the Bank Secrecy Act (BSA) and U.S. anti-money laundering (AML) laws in recent years.

The CTA requires companies to file a “beneficial ownership information” (BOI) report with FinCEN – the Financial Crimes Enforcement Network of the U.S. Treasury.

The BOI report must identify each “beneficial owner” of the company. In addition, the BOI report must provide basic information about the company (like its name, state of organization, and EIN) and identifying information for each beneficial owner (like name, residential address and a driver’s license or passport number, along with a photocopy).

Once a company files its BOI report it must file an amendment within 30 days after any change in the information reported.

Here are some examples of changes in data that might trigger the legal need to file an amendment:

- The Association changes its name, principal place of business, taxpayer identification number, or jurisdiction of formation;
- An individual becomes a beneficial owner (who was not one before) or an individual ceases to be a beneficial owner (who was identified as one on the prior BOI report). (Changes like this may occur when there is a board election, or if a board member or senior officer resigns.)
- A beneficial owner’s reported personal information changes (such as a change in their legal name, residential address, or the reported information on the individual’s identifying document).

The CTA aims to build a database of beneficial ownership that law enforcement can use to fight money laundering. For that reason, the CTA defines “**beneficial owner**” as each individual who either (a) owns 25% or more of the company, or (b) **exercises “substantial control” over the reporting company.**

¹ Technically, the CTA is part of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L No. 116-283.

The term “substantial control” includes four categories of individuals (1) those who are “senior officers” of the company (defined to include the company’s president, CEO, CFO, COO or general counsel), (2) those who have the power to appoint or remove any senior officer or a majority of the board of directors, (3) those who have “substantial influence over important decisions” (more on this in a minute) and (4) any other individual who has any other form of substantial control.

The third and fourth prongs of the test are clearly intended to include a wide group of individuals who have an ability to exercise a substantial influence over important decisions involving the company. For most companies this will include the members of the company’s board of directors, since those individuals have the ability to participate in, and vote on, important decisions.

So that’s the CTA in a nutshell. How does it apply to Associations like yours?



Part 2. What Are Associations and How are They Organized

Homeowner associations, condo associations and other real estate residential associations (all of which I'll call "Associations" in this guide) are organized under state law. That means that your Association was formed when the original founders filed "articles of incorporation" or a similar document with the secretary of state in your state.²

Most Associations – research indicates that more than 99% of the Associations in the U.S. – are organized as non-profit corporations under state law. **All non-profit corporations are reporting companies for purposes of the CTA.**

The Structure of a Non-Profit Corporation

Non-profit corporations are formed when an organizer files "articles of incorporation" or a "certificate of incorporation" (depending on the state) with the state's secretary of state (or similar filing office).

In most states, a corporation must file an annual report or annual statement with the secretary of state and pay a fee. In some states, the annual report will list the members of the board of directors, the corporation's president and secretary, or another officer. In some states, such identifying information is not required.

What's important for CTA purposes is that most Associations are formed as non-profit corporations, which means they are reporting companies for purposes of the CTA.

There are a handful of Associations that are organized as "unincorporated associations." If your Association is an unincorporated association, it might not be a reporting company for purposes of the CTA. If it is not a reporting company, it will not need to file a BOI report. If you think your Association is an unincorporated association, you should consult with an attorney to be sure before making a final decision.

The Board of Directors

Every corporation must have a board of directors. The board's approval is required by law for important decisions, like appointing officers, signing contracts, borrowing and spending money, and so on.

² In most states corporations are formed by filing articles of incorporation (or a "certificate of incorporation") with the secretary of state. In some states, this same function is performed by another state agency (like a state "commissioner of securities," for example). Under the CTA, an entity is a reporting company if it was formed by the filing of a document with a "secretary of state or any similar officer under the law of a State or Indian tribe."

The procedure for electing members to the board of directors is usually provided in the corporation's bylaws. The bylaws are usually adopted by the original organizer of the corporation. The bylaws may be amended by the board or by the members of the corporation (if it is a non-profit corporation under state law). Laws vary by state, so you may need to consult your Association's attorney if you have questions about your Association's bylaws or the procedure to elect members to your Association's board.

What's important is that your Association has a board and the members of your board have substantial influence over important decisions that your Association makes. **Members of your Association's board of directors are treated as "beneficial owners" of your Association for purposes of the CTA.**

Officers

Officers are usually appointed by the board of directors, but some Associations may have bylaws that require officers to be elected by the membership. Officers have specified roles, duties and privileges, usually as spelled out in the bylaws.

Some Associations specify in their bylaws that certain officers are part of the board of directors. Other Associations separate officer roles from the board of directors.

What's important for CTA purposes is to distinguish between officers that qualify as "senior officers" (as that term is defined in the CTA) from others.

The CTA defines "senior officer" as any individual who is a President, CEO, CFO, COO or general counsel of the reporting company, and any person who serves in a similar function regardless of their title.

If an individual functions, in fact, like a CEO then for CTA purposes you should treat them like a CEO. It is not the title that matters. It is the function performed that determines whether an individual is a "senior officer" for CTA purposes.

Under the CTA, each senior officer of the reporting company is deemed to have "substantial control" over the reporting company and is therefore treated as a "beneficial owner" of the reporting company.

Tax-Exempt Status

An organization's tax-exempt status (for federal income tax purposes) is separate from the status of the organization as a non-profit corporation. An entity could be organized as a non-profit corporation (under state law) but fail to qualify as a tax-exempt entity under federal income tax law. The two legal standards are separate.

Most Associations are exempt from federal income tax under Section 528 of the Internal Revenue Code. This is important because there is an exemption under the CTA that applies to many "non-profit" entities. The CTA exemption, however, only

applies to non-profit entities that are exempt under Section 501(c) of the Internal Revenue Code.

If your Association is exempt from income tax under Section 528, your Association is not exempt from the CTA and it will need to file a BOI report.

If your Association is one of the rare entities that has received an IRS determination letter under Section 501(c) (and this is fewer than 1% of all Associations) then your Association may be exempt from the CTA. You should consult an attorney before making any final decision.



Part 3. How the CTA Applies to Associations

So, if your Association is a reporting company and is not exempt, it will need to file a BOI report. What does that mean for you?

Information About Your Association

First, your Association's BOI report will need to include some basic information about the Association itself. In particular, you'll need to have your Association's:

- Full legal name;
- Any trade or "doing business as" names;
- Principal place of business;
- The state, tribal, or foreign jurisdiction of formation; and
- The IRS Taxpayer Identification Number (TIN) (including an Employer Identification Number) for the Association (reporting company)

Next, your Association will need to identify each beneficial owner. For an Association that is organized as a not-for-profit corporation, the Association's beneficial owners will consist of:

- Each member of the board of directors, and
- Each senior officer (i.e., President, CEO, CFO, COO and General Counsel).

The BOI report must include, for each beneficial owner, that individual's:

- Full legal name;
- Date of birth;
- Current residential street address;
- A unique identifying number (which must be either a non-expired US driver's license or a non-expired US passport); and
- A photocopy of the document that provides the unique identifying number (i.e., the driver's license or passport).

If your Association was formed on or after January 1, 2024, your Association will also need to identify its company applicant and provide the same information for the

company applicant as it must provide for a beneficial owner. (For a definition of “company applicant” refer to Section 5).

Information About Your Beneficial Owners

As we discussed in Part 2, the beneficial owners of an Association that is organized as a non-profit corporation under state law, include all the Association’s board members and all its senior officers.

Your Association’s BOI report will need to include the personal information outlined above in Part 3 for each of your Association’s beneficial owners.



Part 4. Special Rules for Associations Formed During 2024

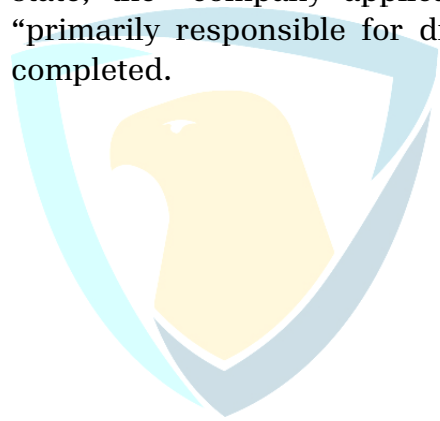
If your Association was formed as a corporation before January 1, 2024, you do not need to read this Part 4.

If your Association was formed as a corporation on or after January 1, 2024, then there are some special rules that apply to your Association.

Under the CTA, reporting companies formed on or after January 1, 2024 must also identify their “company applicant” and provide for that person the same information as would be required of a beneficial owner.

Under the CTA rules the “company applicant” is the individual who directly filed the document that formed the Association through the secretary of state.

If more than one person was involved in filing the document with the secretary of state, the “company applicant” will also include the second persons who was “primarily responsible for directing or controlling the filing” that the first person completed.



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Part 5. Getting Ready to File the Initial BOI Report

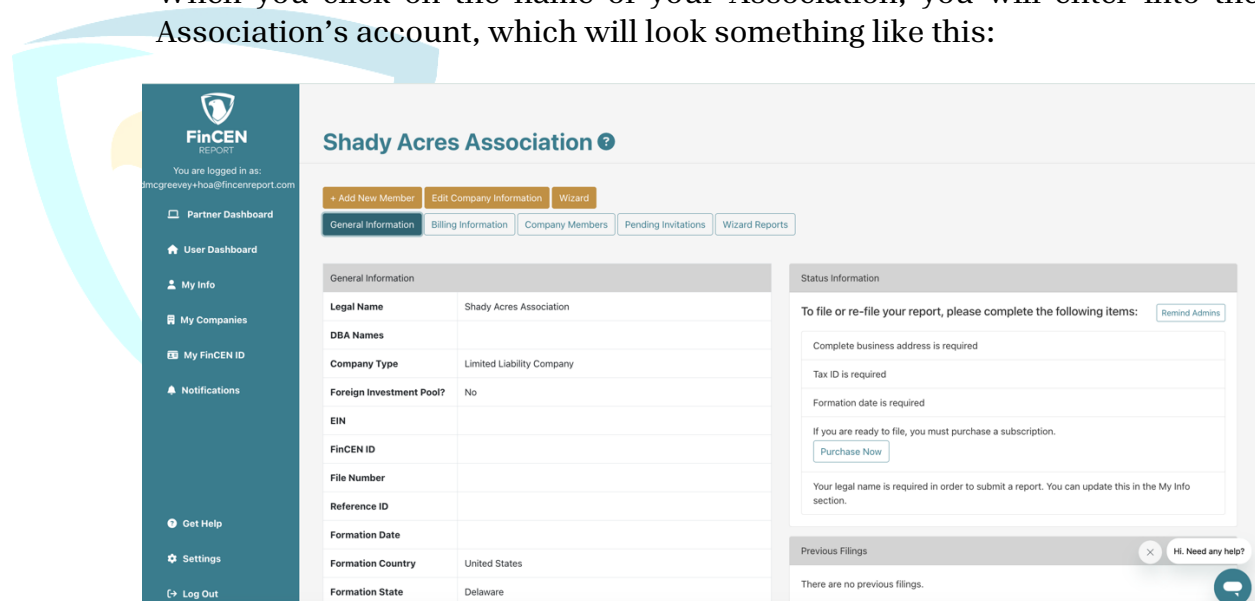
Here is a process you can follow to file your Association’s initial BOI report through the FinCEN Report System.

First, communicate regarding the process with your board members and senior officers. Give them a copy of this guide or a briefing on the CTA so they know what to expect.

Second, input your Association’s information into the FinCEN Report System.

- Some Associations are working with management companies that have partnered with FinCEN Report. In those instances, the Association’s information may already be entered into the system.

You can find your Association’s account through the “My Companies” tab. When you click on the name of your Association, you will enter into the Association’s account, which will look something like this:

A screenshot of the FinCEN Report System dashboard for an association named "Shady Acres Association". The interface is divided into a left sidebar with navigation links (Partner Dashboard, User Dashboard, My Info, My Companies, My FinCEN ID, Notifications, Get Help, Settings, Log Out) and a main content area. The main area has a top navigation bar with tabs: Add New Member, Edit Company Information, Wizard, General Information, Billing Information, Company Members, Pending Invitations, and Wizard Reports. The "General Information" tab is active, showing a form with fields for Legal Name (Shady Acres Association), DBA Names, Company Type (Limited Liability Company), Foreign Investment Pool? (No), EIN, FinCEN ID, File Number, Reference ID, Formation Date, Formation Country (United States), and Formation State (Delaware). To the right of the form is a "Status Information" section with a "Remind Admins" button and a list of items to complete: Complete business address is required, Tax ID is required, Formation date is required, and a note about purchasing a subscription. At the bottom right, there is a "Previous Filings" section showing "There are no previous filings." and a "Need any help?" button.

- If your Association is not working with a management company that has partnered with FinCEN Report, you may need to create your Association’s account in our system.
 - Don’t worry, it’s easy. After you log into FinCEN Report, look for the **Company Admin Guide** and download a copy. The Company Admin Guide will show you how to create a “company account” for your Association and how to invite your fellow beneficial owners you’re your Association’s account.

Third, enter the names and email addresses for each beneficial owner into the FinCEN Report System, by adding them as “members” to your Association’s account.

- If your Association’s management company has partnered with FinCEN Report, your board members may already have been invited as members into the Association’s account. If so, inside your Association’s account, click on the tab for “Company Members” and you will see names and emails that will look like this:

Shady Acres Association

+ Add New Member Edit Company Information Wizard

General Information Billing Information **Company Members** Pending Invitations Wizard Reports

Member Name	Email	Roles	Data Source	Actions
Markus Thompson	universalglobal@fincenreport.com	Admin	FinCEN ID	Roles
michael jacobson	mjacobson@fincenreport.com	Beneficial Owner	FinCEN ID	Roles

Company as Beneficial Owners:

Last name or Entity's legal name	FinCEN Id	Roles	Actions
None			

Members with **Dark Blue Buttons** are included in the report filed with FinCEN.

Exempt Entities	Roles	Actions
This company has no exempt entities.		

Hi, Need any help?

- If you need to add a beneficial owner, click on the tab labeled “+ Add New Member” and follow the instructions to add the beneficial by name and email address.

As soon as you press the button to “invite” the beneficial owner, they will receive an email from “filefincen.com” with a link they can click to enter into their personal account in the FinCEN Report System.

Fourth, populate the personal data in your personal account so that your data is complete.

- Click on the “My Info” tab on the left nav bar to enter into your personal account. From there you can enter your personal data into the system. It will look something like this:

All the data you enter into your personal account is encrypted in our system. We will not use your data for any purpose, other than processing BOI reports on behalf of your Association.³

Fifth, follow up with your fellow beneficial owners to make sure that they populate their personal accounts as well.

- Check on the status of your Association by entering the Association account and looking in the “Status Information” box on the right-hand side.

If your Association’s data is not yet complete, the “Status Information” box will describe what is left to be done, like this:

³ You can also use the FinCEN Report Company to file BOI reports for other companies where you are a beneficial owner. If you choose to do so, you will be using the same data that you enter into your personal account.

When all the data is complete for your Association and all your beneficial owners, you will see a message in the “Status Information” box that says “Great news! Your company is ready to file.”

FinCEN REPORT

You are logged in as: universalglobal@fincenreport.com

Partner Dashboard

User Dashboard

My Companies

My FinCEN ID

My Info

My Documents

Notifications

Get Help

Settings

Log Out

ATTENTION: You have a FILING due soon. Please check My Companies tab for information.

Shady Acres Association

+ Add New Member Edit Company Information Leave this Company Wizard

General Information Billing Information Company Members Pending Invitations Wizard Reports

General Information	
Legal Name	Shady Acres Association
DBA Names	Shady Acres
Company Type	Corporation
Foreign Investment Pool?	No
EIN	12-3457897
FinCEN ID	
File Number	
Reference ID	
Formation Date	July 1, 1997
Formation Country	United States
Formation State	Missouri
Address 1	101 Main Street

Status Information

Great news! Your company is ready to file.
Your company information is complete, you may file your BOI report.

[Submit Report](#)

Previous Filings

There are no previous filings.

When you see that message, you may click on the “Submit Report” button to file your Association’s BOI report.

Part 6. Checklist for each Board Meeting and Annual Meeting

Staying in compliance with the CTA will require each of your Association's beneficial owners to keep their personal data in the FinCEN Report System up to date.

If you move your residence, change your name, change or update your driver's license or passport, or change your role as a board member or officer, you should promptly update the relevant data in your personal account.

- Doing this will trigger an amendment. Your Association's Admin will need to log into the FinCEN Report System, navigate to the General Information tab, look inside the Status Information box, and click the button to file the amendment.

If one of your board members or officers resigns their post, the Admin for your Association should log into the Association account and remove that individual from the Association.

- Doing this will trigger an amendment. Your Association's Admin will need to log into the FinCEN Report System, navigate to the General Information tab, look inside the Status Information box, and click the button to file the amendment.

To stay in compliance, you should add an agenda item to your board meetings that prompts board members and officers to update their personal accounts if any of their personal information has changed.

You should also add an agenda item to update the Association's account if any board members have resigned, or been added to the board, or if any officers have resigned, or been added.

You should also add an agenda item to your annual meeting to ensure that any newly-elected board members or newly-appointed officers are added to the Association's account and then prompted to complete their personal information.

- Changing board members or officers will trigger an amendment. Your Association's Admin will need to log into the FinCEN Report System, navigate to the General Information tab, look inside the Status Information box, and click the button to file the amendment.

You should add a notice to member communications regarding board positions, nominations and elections so that members and potential candidates are aware of the CTA and the fact that they will need to cooperate with the BOI report process if they are elected to the board. Consider utilizing the following notice language:

- The 2020 Corporate Transparency Act requires Associations like ours to file a beneficial ownership information report with the U.S. Treasury. Any who serves on the Board or as a senior officer will need to provide their personal information for inclusion in our Association's report under the CTA.

Part 7. Read This to Know What You Need to do Next

If you are reading this it means that you have skipped ahead. That's okay if you are comfortable with your obligations under the CTA and know all your new vocabulary words. If so, read on. If not, don't get frustrated. You may need to refer to earlier portions of this guide if you get confused.

If you are ready to get started, here are the steps to follow:

1. Accept the invitation you received by email. The email will come from no-reply@filefincen.com. Whitelist this email to receive the invite.
2. Follow the link in the invitation to sign into your personal account to enter your personal information. (Refer to the detailed instructions in Part 5 if you are uncertain.)
3. When you and all the other beneficial owners have completed your personal accounts, your Association will be ready to file. Log into the Association's account and click the "Submit Report" button underneath "Status information". (Refer to the detailed instructions in Part 5 if you are uncertain).

Part 8. Frequently Asked Questions

The FinCEN Report Company has been working on the CTA for several years and we have had hundreds (perhaps thousands) of conversations with individual about what the CTA requires and how our system works.

Please refer to our compilation of FAQs for Association Board Members.

