

## WINTON LAW

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February 23, 2024

### **Memorandum on Beneficial Ownership Information reporting requirements**

- 1. Summary:** Oklahoma community association boards and officers need to be aware of the recent finalization of rules relating to reporting requirements under Section 6403 of the Corporate Transparency Act (“CTA”). Effective January 1, 2024, the CTA requires certain reporting by community association directors and officers and those who submit the application for reporting (most likely an attorney or accountant on behalf of the association). Failure to report can subject the association and its directors/officers, and applicant to significant monetary penalties and criminal prosecution. This Memo is to provide general education and information and is not to be considered or relied upon as legal advice.

You may have received a letter from the Oklahoma Secretary of State resembling the letter attached to this **Memo** as **Exhibit 1**. This **Memo** explains more about the information contained in that notice letter. If you or the board/officers for your community association need assistance with navigating the reporting requirements under the CTA, please contact **WINTON LAW** to schedule a conference.

**FILING UNDER THE CTA IS MANDATORY. HOMEOWNER ASSOCIATIONS, OWNER ASSOCIATIONS, CONDO ASSOCIATIONS, OR HOWEVER YOUR COMMUNITY ASSOCIATION IS TITLED, ARE NOT EXEMPT – IF YOUR ASSOCIATION IS INCORPORATED OR A LIMITED LIABILITY COMPANY, YOUR DIRECTORS AND OFFICERS MUST COMPLY WITH THE CTA. THERE ARE STRICT TIMEFRAMES FOR FILING. THERE ARE POTENTIAL MONETARY PENALTIES AND CRIMINAL PENALTIES FOR NON-COMPLIANCE WITH THE CTA.**

### **2. Beneficial Ownership Information Reporting.**

The “Small Entity Compliance Guide” published by FinCen at <https://www.fincen.gov/boi><sup>1</sup> provides:

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<sup>1</sup> [https://www.fincen.gov/sites/default/files/shared/BOI\\_Small\\_Compliance\\_Guide.v1.1-FINAL.pdf](https://www.fincen.gov/sites/default/files/shared/BOI_Small_Compliance_Guide.v1.1-FINAL.pdf)

The [Reporting Rule](#),<sup>2</sup> issued on September 30, 2022, implements Section 6403 of the Corporate Transparency Act. The rule describes who must file BOI reports, what information they must provide, and when they must file the reports.

The Reporting Rule is found at 1010.380 in title 31 of the Code of Federal Regulations (CFR). An electronic version is also available through FinCEN's website. Specific sections of the Reporting Rule are cited throughout this Guide using the citation "1010.380[paragraph number]." Appendix A to this Guide provides an index of where this Guide cites to the different parts of the regulation. This Guide covers all the provisions of 1010.380.

Regarding storage and protection and disclosure of the reported information:

Starting on January 1, 2024, BOI reports must be filed electronically using FinCEN's secure filing system. FinCEN will store BOI reports in a centralized database and only share this information with authorized users for purposes specified by law. The database will use rigorous information security methods and controls typically used in the Federal government to protect non-classified yet sensitive information systems at the highest security level.

Timing for filing the initial report varies depending on when the reporting entity was created:

**When do I need to file a report?**

- Reports will be accepted starting on January 1, 2024.
- Reporting companies created or registered to do business before January 1, 2024, will have additional time — until January 1, 2025 — to file their initial BOI reports.
- Reporting companies created or registered on or after January 1, 2024, and before January 1, 2025, have 90 calendar days after receiving actual or public notice that their company's creation or registration is effective to file their initial BOI reports. Specifically, this 90-calendar day deadline runs from the time the company receives actual notice that its creation or registration is effective, or after a secretary of state or similar office first provides public notice of its creation or registration, whichever is earlier.
- Reporting companies created or registered on or after January 1, 2025, will have 30 calendar days from actual or public notice that the company's creation or registration is effective to file their initial BOI reports.

**Where can I find additional information about BOI reporting?**

- Additional information about the Reporting Rule and guidance materials are available at [www.fincen.gov/boi](http://www.fincen.gov/boi).
- FinCEN has issued and will continue to issue frequently asked questions to address specific questions on the topic. They can be found here: [www.fincen.gov/boi-faqs](http://www.fincen.gov/boi-faqs).
- In addition, if you have any questions regarding BOI reporting obligations, you should contact FinCEN at [www.fincen.gov/contact](http://www.fincen.gov/contact).

The Small Entity Compliance Guide contains additional information and guidance on topics such as:

**#4 – What specific information does my company need to report?**

**#5 – When and how should my company file its initial report?**

**#6 – What if there are changes to or inaccuracies in reported information?**

**Documents you will need to complete the BOI registration:**

1. **Articles of Incorporation** and all amendments for the corporate entity (the “Entity”)
  - 1.1. If you do not have readily accessible copies of the Entity corporate documents, you may try these options:
    - 1.1.1. Contact the Entity bank and see if they have the documents on file;
    - 1.1.2. Contact a former manager, officer, or director of the Entity;
    - 1.1.3. Contact the Secretary of State and order documents.
2. **EIN** from the Internal Revenue Service
  - 2.1. If you do not have the EIN readily accessible, you may try these options:
    - 2.1.1. Contact the Entity bank and see if they have the EIN on file;
    - 2.1.2. Contact the IRS. See, <https://www.irs.gov/businesses/small-businesses-self-employed/lost-or-misplaced-your-ein>
3. **Document(s) of identification** such as a valid/current passport or driver’s license, including a clean, clear scan of the document. **Registration requires a clean, clear scan or photograph of the document/identification. The attachment must include the photograph and all identification information. If using a driver's license, include images of both sides of the license. If in doubt, include more information/images than less.**

If you need assistance with obtaining any of these necessary documents for reporting, please let us know and our staff can assist you.



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### What specific information does my company need to report?

[Click here to go to Chapter 4](#)

#### Reporting Company

- Full legal name
- Any trade name or "doing business as" (DBA) name
  - » Report all trade names or DBAs.
- Complete current U.S. address
  - » Report the address of the principal place of business in United States, or, if the reporting company's principal place of business is not in the United States, the primary location in the United States where the company conducts business.
- State, Tribal, or foreign jurisdiction of formation
- For a foreign reporting company only, State or Tribal jurisdiction of first registration
- Internal Revenue Service (IRS) Taxpayer Identification Number (TIN) (including an Employer Identification Number (EIN))
  - » If a foreign reporting company has not been issued a TIN, report a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction.

#### Each Beneficial Owner and Company Applicant

Not all reporting companies are required to report information about company applicants. See Chapter 3 for assistance in identifying whether your company is required to report company applicant information.

- Full legal name
- Date of birth
- Complete current address
  - » Report the individual's residential street address, except for company applicants who form or register a company in the course of their business, such as paralegals. For such individuals, report the business street address. The address is not required to be in the United States.
- Unique identifying number and issuing jurisdiction from, and image of, **one** of the following non-expired documents:
  - » U.S. passport
  - » State driver's license
  - » Identification document issued by a state, local government, or tribe
  - » If an individual does not have any of the previous documents, foreign passport



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## When and how should my company file its initial report?

[Click here to go to Chapter 5](#)



### INITIAL REPORTS

Required by all companies that meet the definition of **reporting company** and are not **exempt** from that definition.



#### **Existing reporting companies**

*Created or registered to do business in the United States before January 1, 2024.*  
Reports due by **January 1, 2025**.



#### **New reporting companies**

*Created or registered to do business in the United States on or after January 1, 2024.*  
Reporting companies created or registered **on or after January 1, 2024** and **before January 1, 2025**, have **90 calendar days** after receiving actual or public notice that their company's creation or registration is effective to file their initial BOI reports.  
Reporting companies created or registered **on or after January 1, 2025**, will have **30 calendar days** from receipt of actual or public notice that their creation or registration is effective to file their initial BOI reports.



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**What if there are changes to or inaccuracies in reported information?**

[Click here to go to Chapter 6](#)

If there is *any change* to the required information about your company or its beneficial owners in a BOI report that your company filed, your company must file an updated BOI report no later than 30 days after the date on which the change occurred. The same 30-day timeline applies to changes in information submitted by an individual in order to obtain a FinCEN identifier. A reporting company is not required to file an updated report for any changes to previously reported personal information about a company applicant.

The following are some examples of changes that would require an updated BOI report:

- Any change to the information reported for the reporting company, such as registering a new DBA.
- A change in beneficial owners, such as a new Chief Executive Officer, a sale that changes who meets the ownership interest threshold of 25 percent, or the death of a beneficial owner.

*Note:* When a beneficial owner dies, resulting in changes to the reporting company's beneficial owners, report those changes within 30 days of when the deceased beneficial owner's estate is settled. The updated report should, to the extent appropriate, identify any new beneficial owners.

- Any change to a beneficial owner's name, address, or unique identifying number provided in a BOI report.

*Note:* If a beneficial owner obtained a new driver's license or other identifying document that includes the changed name, address, or identifying number, the reporting company also would have to file an updated beneficial ownership information report with FinCEN, including an image of the new identifying document.

If you or your community association need assistance with navigating the CTA's reporting requirements or other community association legal issues, please contact Matthew L. Winton to schedule a conference.

For free HOA/condo related education and board trainings, go to [@wintonlaw](#) on YouTube and subscribe for updates.

WINTON LAW

Matthew L. Winton

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EXHIBIT 1

Josh Cockroft  
Secretary of State

OKLAHOMA SECRETARY OF STATE  
421 N.W. 13TH, SUITE 210  
OKLAHOMA CITY, OK 73103

J. Kevin Stitt  
Governor

01/29/2024

MATTHEW L. WINTON PLLC  
ATTN: [REDACTED]  
3233 E MEMORIAL ROAD  
SUITE 103  
EDMOND OK 73013  
USA

RE: [REDACTED] HOMEOWNERS ASSOCIATION, INC.

Document Number: [REDACTED]  
Client Account Number: [REDACTED]

Dear Secretary of State Customer:

The Oklahoma Secretary of State is reaching out to make you aware of reporting requirements that go into effect on January 1, 2024, and that may require your business to report its beneficial ownership information to the Federal government. Learn more about these requirements, and review informational materials, by visiting the dedicated webpage maintained by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) at [www.fincen.gov/boi](http://www.fincen.gov/boi).

**As your next step: Go to [FinCEN.gov/BOI](http://FinCEN.gov/BOI)** to determine if your new entity needs to report information about their beneficial owners—the persons who ultimately own or control the company—to Treasury's Financial Crimes Enforcement Network (FinCEN). You can also subscribe to [FinCEN Updates](#) for future guidance documents .

**\*\*IMPORTANT NOTICE\*\***

You may receive solicitations from third party companies offering to order good standing certificates, or process various filings on your behalf in the future. Please be aware that these companies are **NOT** affiliated with our office. You may order and file documents directly with our office online at [www.sos.ok.gov](http://www.sos.ok.gov), by mail, or in person at 421 N.W. 13<sup>th</sup>, Suite 210. Oklahoma City, OK 73103.

Sincerely,

Josh Cockroft  
Secretary of State