

Treasury Department Extends FBAR Deadline Until June 30, 2014, For Certain Filers

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On December 26, 2012, the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") issued Notice 2012-2, which extends for certain filers the due date for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (the "FBAR"), to June 30, 2014.¹

Specifically, the extension applies with respect to FBAR filings reporting signature authority in 2012 and prior years to:

Officers and employees of banks, publicly traded corporations, and certain other entities specified in the FBAR regulations (each a "specified entity") who had signature authority over, but no financial interest in, the foreign financial accounts of a person that are more than 50 percent owned, directly or indirectly ("controlled"), by their employer;²

Officers and employees of a person controlled by a specified entity who had signature authority over, but no financial interest in, the reportable foreign accounts of the controlled person of which the individual is an officer or employee or the reportable accounts of the controlling entity or its other controlled persons; and

Officers and employees of investment advisers registered with the U.S. Securi-

ties and Exchange Commission who had signature authority over, but no financial interest in, the foreign financial accounts of persons that are *not* investment companies registered under the Investment Company Act of 1940.

This new FinCEN Notice extends the previous deadline of June 30, 2013 set for these filers last year in FinCEN Notice 2012-1.³

For all other filers, the FBAR filing deadlines remain unchanged. Each U.S. person, including a citizen or resident of the United States and any entity organized under the laws of the United States, is required to file the FBAR, using Form TD F 90-22.1, with the U.S. Treasury Department by June 30 of each year with respect to foreign financial accounts that had an aggregate value of more than \$10,000 and that the person had a financial interest in, or signature authority over, during the previous calendar year.⁴ Failure to file the FBAR, which requires basic information about foreign domiciled accounts, can result in significant civil and/or criminal penalties.⁵



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lowing: (i) banks or other depository institutions subject to functional regulation by a federal agency that also examines them for Bank Secrecy Act ("BSA") anti-money laundering compliance; (ii) entities the shares of which are listed on any U.S. national securities exchange; (iii) an "Authorized Service Provider," defined as an entity registered with and examined by the Securities and Exchange Commission (the "SEC") and that provides services to an investment company registered under the Investment Company Act of 1940; (iv) an officer or employee of a "financial institution" (as defined by the BSA) that is registered with and examined by the SEC or the Commodity Futures Trading Commission; and (v) an entity that has a class of equity securities registered (or American depository receipts in respect of equity securities registered) under section 12(g) of the Securities Exchange Act.

3 The categories of individuals affected by Notice 2012-2 were identified and previously granted extensions by FinCEN in Notice 2011-1, Notice 2011-2, and Notice 2012-1.

4 The most recent version of Form TD F 90-22.1 was issued in January 2012 and is available <http://www.irs.gov/pub/irs-pdf/f90221.pdf>.

5 For further information on the FBAR requirements generally, please see Willkie Farr & Gallagher LLP Client Memoranda: "Treasury Department Issues Revised Rules For Reporting Foreign Financial Accounts" (Mar. 16, 2011), available at http://www.willkie.com/files/tbl_s29Publications/FileUpload5686/3711/Treasury-Department-Issues-Revised-Rules.pdf; "Update on Foreign Bank and Financial Account Reporting: IRS Issues Revised FBAR Form and Instructions" (Apr. 1, 2011), available at http://www.willkie.com/files/tbl_s29Publications/FileUpload5686/3729/Update-On-Foreign-Bank-And-Financial-Account-Reporting.pdf; "Treasury Department Agencies Extend The 'FBAR' Deadline For Some Filers With Signature Authority Over Foreign Financial Accounts" (June 20, 2011), available at http://www.willkie.com/files/tbl_s29Publications/FileUpload5686/3797/Treasury-Department-Agencies-Extend-FBAR-Deadline.pdf; "Treasury Department Extends FBAR Deadline Until June 30, 2013 For Certain Filers" (Feb. 24, 2012), available at http://www.willkie.com/files/tbl_s29Publications/FileUpload5686/4017/Treasury-Department-Extends-FBAR-Deadline2.pdf; and "Internal Revenue Service Has Revised FBAR-Related Questions on U.S. Form 1040, Schedule B" (Mar. 15, 2012), available at http://www.willkie.com/files/tbl_s29Publications/FileUpload5686/4027/IRS-Has-Revised-FBAR-Related-Questions.pdf.

1 FinCEN Notice 2012-2 may be viewed at http://www.fincen.gov/statutes_regs/guidance/pdf/FinCEN_Note_2012-2_FBAR_Filing_Extension.pdf.

2 The FBAR regulations establish an exception from the requirement to file an FBAR for signature authority with respect to the reportable accounts of the employer for officers and employees of any of the fol-

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