

CLIENT MEMORANDUM

Treasury Department Extends FBAR Deadline Until June 30, 2016 for Certain Filers

January 6, 2015

AUTHORS

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On November 24, 2014, the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") issued Notice 2014-1, which extends for certain filers the due date for the FinCEN Form 114, Report of Foreign Bank and Financial Accounts (the "FBAR"), to **June 30, 2016**.¹ This Notice was preceded by five earlier extensions that applied to similarly situated individuals.

With respect to reporting an individual's signature authority over, but no financial interest in, foreign financial accounts during 2014 and preceding years, the latest extension specifically applies to:

- Officers and employees of banks, publicly traded corporations, and certain other entities specified in the FBAR regulations (each a "specified entity"²) who had signature authority over, but no financial interest in, the foreign

¹ Notice 2014-1 may be viewed [here](#).

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 following "specified entities": (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

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financial accounts of a person that is “controlled” (i.e., more than 50% owned, directly or indirectly) by their employer;

- 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. Securities 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, 2015 set for these filers last year in FinCEN Notice 2013-1.³

For all other filers, the FBAR filing deadline remains unchanged: the FBAR for 2014 is due on or before June 30, 2015. 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 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. Each filer—or an individual or entity authorized in writing by the filer using FinCEN Form 114a—must complete and submit their FBARs electronically, using Form 114 and the BSA E-Filing System.⁴ Failure to file the FBAR, which requires basic information about foreign domiciled accounts, can result in significant civil and/or criminal penalties.⁵

Company Act of 1940; (iv) an officer or employee of a “financial institution” (as expressly 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 Depositary Receipts in respect of equity securities registered) under section 12(g) of the Securities Exchange Act.

³ The categories of individuals affected by Notice 2014-1 were identified and previously granted extensions by FinCEN in [Notice 2011-1](#), [Notice 2011-2](#), [Notice 2012-1](#), [Notice 2012-2](#), and [Notice 2013-1](#).

⁴ Form 114, Form 114a, and information regarding the BSA E-Filing System are available [here](#).

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 [here](#); “Update on Foreign Bank and Financial Account Reporting: IRS Issues Revised FBAR Form and Instructions” (Apr. 1, 2011), available [here](#); “Treasury Department Agencies Extend The ‘FBAR’ Deadline For Some Filers With Signature Authority Over Foreign Financial Accounts” (June 20, 2011), available [here](#); “Treasury Department Extends FBAR Deadline Until June 30, 2013 For Certain Filers” (Feb. 24, 2012), available [here](#); “Internal Revenue Service Has Revised FBAR-Related Questions on U.S. Form 1040, Schedule B” (Mar. 15, 2012), available [here](#); “Treasury Department Extends FBAR Deadline Until June 30, 2014 for Certain Filers” (Jan. 18, 2013), available [here](#); and “Reminder: Foreign Bank and Financial Accounts Report (“FBAR”) Filing Deadline of June 30, 2014 for 2013 FBAR” (May 30, 2014), available [here](#).

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If you have any questions regarding this memorandum, please contact Joseph A. Riley (212-728-8715, jriley@willkie.com), Barbara Block (202-303-1178, bblock@willkie.com) or the Willkie attorney with whom you regularly work.

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