

CLIENT MEMORANDUM

Reminder: Foreign Bank and Financial Accounts Report (“FBAR”) Filing Deadline of June 30, 2015

May 27, 2015

AUTHORS

Joseph A. Riley | Barbara Block

Deadline Re-extended for Certain Signature Authority FBARs

Mandatory Electronic Filing

Authorization or Reauthorization of Third-Party Preparers

A U.S. person with a financial interest in, or signature authority over, one or more foreign financial accounts with an aggregate value of more than \$10,000 during 2014 must file a Foreign Bank and Financial Accounts Report (“FBAR”) on or before June 30, 2015.

Filers should note several developments since last year’s deadline:

- On November 24, 2014, the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) issued Notice 2014-1, which extends for certain filers the due date for the FinCEN Form 114 FBAR to **June 30, 2016**.¹

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

Reminder: Foreign Bank and Financial Accounts Report (“FBAR”) Filing Deadline of June 30, 2015

Continued

- On May 8, 2015, FinCEN expanded the allowable electronic formats for electronic filing, for individuals who file their own FBARs.

Deadline Re-extended for Certain Signature Authority FBARs

Notice 2014-1 specifically applies 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 is “controlled” (i.e., more than 50% owned, directly or indirectly) 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. 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 Notice was preceded by five earlier extensions that applied to similarly situated individuals and 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.

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,” that is defined as an entity registered with and examined by the Securities and Exchange Commission (the “SEC”) 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 expressly defined in 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 See Willkie Farr & Gallagher LLP Client Memorandum, “Treasury Department Extends FBAR Deadline Until June 30, 2016 for Certain Filers” (Jan. 6, 2015), available [here](#).

Reminder: Foreign Bank and Financial Accounts Report (“FBAR”) Filing Deadline of June 30, 2015

Continued

Mandatory Electronic Filing

As of July 2013, the Treasury Department required all FBARs, and amendments to previously filed FBARs, to be submitted electronically using FinCEN's BSA E-Filing System. An entity filing an FBAR for the first time must enroll in the E-Filing System through an online process that includes designating a responsible individual as the organization's "Supervisory User," creating a user name and password, and completing certain additional steps. There is no enrollment fee.⁴ Once enrolled, entities remain enrolled unless they have taken specific action to terminate the enrollment on their own since the last filing.

An individual filing an FBAR for him/herself is not required to enroll in the E-Filing System, but may simply view, complete, and submit the form at the FinCEN website.⁵ As of May 8, 2015, an individual may now employ either the previous method of filing an FBAR or complete a new online form that requires having only an Internet browser to make the filing.⁶

Authorization or Reauthorization of Third-Party Preparers

An individual or entity wishing to have a third-party preparer—such as an accountant or tax adviser—submit the FBAR on the filer's behalf must execute a FinCEN Form 114a, Record of Authorization to Electronically File FBARs.⁷ A Form 114a applies only to the filing year stated on the form. Therefore, a Form 114a executed in 2014 with respect to the FBAR for 2013 is no longer valid, and a new Form 114a must be completed and signed to authorize a third party to submit the filer's FBAR for 2014.

In general, an authorized preparer (if an individual) or the preparer's firm must be enrolled in the E-Filing System to submit an FBAR on another's behalf. However, this requirement does not apply to a spouse submitting an FBAR on behalf of the other spouse with respect to a jointly owned account.

FBAR Filing Obligation

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 an 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 the FBARs electronically, using Form 114 and the BSA E-Filing System. Paper FBARs are no longer accepted, including amendments to previously filed FBARs that

⁴ FinCEN enrollment information for entity E-Filers is available [here](#).

⁵ The individual FBAR may be accessed [here](#). Line-item instructions for all filers may be viewed [here](#).

⁶ The FinCEN announcement, which includes a comparison of the two options, may be viewed [here](#).

⁷ The Form 114a, which includes brief instructions, is available [here](#).

Reminder: Foreign Bank and Financial Accounts Report (“FBAR”) Filing Deadline of June 30, 2015

Continued

had been submitted on paper. Failure to file the FBAR, which requires basic information about foreign domiciled accounts, can result in significant civil and/or criminal penalties.⁸

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.

Willkie Farr & Gallagher LLP is an international law firm with offices in New York, Washington, Houston, Paris, London, Frankfurt, Brussels, Milan and Rome. The firm is headquartered at 787 Seventh Avenue, New York, NY 10019-6099. Our telephone number is (212) 728-8000 and our fax number is (212) 728-8111. Our website is located at www.willkie.com.

May 27, 2015

Copyright © 2015 Willkie Farr & Gallagher LLP.

This memorandum is provided by Willkie Farr & Gallagher LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum may be considered advertising under applicable state laws.

⁸ 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](#).