



For your information

Volume 35 | Issue 17 | March 20, 2012

Treasury Extends Deadline for Certain FBAR Filers and Provides Temporary Exemption from E-Filing Requirement

The Treasury Department's Financial Crimes Enforcement Network recently extended the deadline for certain FBAR filings for an additional year, and generally exempted FBAR filers from an electronic filing mandate until July 1, 2013. Because the E-Filing exemption applies only to the manner of reporting, it does not affect a person's obligation to file or the filing deadline.

Background

Generally, United States (U.S.) citizens, residents, or domestic entities with financial interests in, or signature or other authority over, offshore financial accounts valued at more than \$10,000 at any time during a calendar year must file a report using Treasury [Form TD F 90-22.1](#), Report of Foreign Bank and Financial Accounts (FBAR). The report is due by June 30 of the year following the calendar year being reported.

Last year, the Treasury Department's Financial Crimes Enforcement Network (FinCEN) extended the FBAR filing deadline for calendar year 2010 and earlier years for certain persons. FinCEN Notices 2011-1 and 2011-2 extended the filing due date to June 30, 2012 for certain officers and employees of controlled persons and of investment advisers registered with the Securities and Exchange Commission who have signature authority over, but no financial interest in, the reportable accounts. (See our July 15, 2011 [For Your Information](#).) FinCEN subsequently [announced](#) an electronic filing option for FBARs.

Extended Deadline for Certain FBAR Filers

On February 14, 2012, FinCEN announced an additional one-year extension for certain FBAR filers. [Notice 2012-1](#) extends the filing due date from June 30, 2012 to June 30, 2013, but only for those whose filing date was previously extended by Notice 2011-1 or 2011-2. The extension applies to the reporting of signature authority held during the 2011 calendar year and other years covered by Notices 2011-1 and 2011-2. For all other persons required to file an FBAR this year, the June 30, 2012 filing deadline remains unchanged.

Temporary Exemption from Mandatory E-Filing of FBARs

On February 24, 2012, FinCEN [announced](#) that it would require electronic filing of most FinCEN reports, using [BSA E-Filing](#), beginning July 1, 2012. In a separate [Notice](#) posted on its website, FinCEN confirmed a one-year general exemption of FBARs from the E-Filing mandate.

Although FinCEN encourages individuals to E-File FBARs and made that option available, it delayed the E-Filing requirement until July 1, 2013 to give filers time to prepare. Mandatory E-Filing begins with the report for calendar year 2013, which must be filed by June 30, 2014.

COMPLIANCE ALERT: The temporary exemption relieves individuals and entities from the requirement to file electronically, but not from the obligation to file. FBAR filers retain a paper filing option until July 1, 2013.

Mandatory E-Filing of Other BSA Reports

On February 29, 2012, FinCEN issued a final [Notice](#) requiring all financial institutions subject to Bank Secrecy Act (BSA) reporting to file most FinCEN reports electronically beginning no later than July 1, 2012. Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTRs), which are the most commonly filed FinCEN reports, are included in the E-Filing mandate. Currency and Monetary Instrument Reports (CMIRs) and FinCEN Form 8300 (Report of Cash Payments Over \$10,000 Received in a Trade or Business) are not included, and may continue to be filed on paper.

INSIGHT

In response to industry concerns, FinCEN previously [extended](#) the deadline for financial institutions to utilize the new CTRs and SARs for reporting purposes to March 31, 2013. Until then, financial institutions may file either the legacy forms or the new reports.

FinCEN indicates that it will consider granting certain temporary exemptions from the E-Filing requirement, and it identifies three categories of filers for possible exemption:

- Money services businesses and small credit unions that lack Internet connectivity and file a limited number of FinCEN reports
- Financial institutions that file a large number of CTRs
- Filers in "other extraordinary circumstances."

If granted, an exemption for a money services business or credit union will not extend beyond March 31, 2013, and an exemption to resolve system issues pertaining to CTR filings generally will not extend beyond December 31, 2012. FinCEN indicates that it will not consider a request for an exemption due to “other extraordinary circumstances” if based solely on an institution’s need to change its internal review processes, training, or anti-money laundering program.

To request a temporary exemption from the requirement to E-File BSA reports, financial institutions must use the procedures FinCEN details on its [website](#). FinCEN indicates that it will make “best efforts” to notify any institution that emails or mails an exemption request by March 26, 2012 of its decision no later than April 25, 2012.

Conclusion

FinCEN again extended the reporting deadline for certain FBAR filers who received relief in 2011. All other persons required to file FBARs for calendar year 2011 must do so by June 30, 2012. Pension plan sponsors and advisers should consult with legal counsel as to their particular filing obligations.

FinCEN generally reaffirmed its requirement to go paperless by July 1, 2012, with some important extensions and exemptions. Although most FinCEN reports must be E-Filed beginning July 1, 2012, the mandate does not apply to FBAR filers until July 1, 2013. Temporary exemptions from the E-Filing mandate for other BSA reports may also be available in certain limited circumstances.

Buck Can Help

- Review reporting dates and other matters of concern to pension plan sponsors and advisers
- Keep you informed of any additional E-Filing extensions or exemptions