

FBAR Summary: Compliance deadlines & recent guidance from IRS and FinCEN

As the June 30, 2011 filing deadline for 2010 Reports of Foreign Bank and Financial Accounts (FBARs) has passed, many filers are assessing the impact of the recent administrative relief provided by the Internal Revenue Service (IRS) and the Financial Crimes Enforcement Network (FinCEN) to determine when extended FBAR filings are due. The following is intended to summarize the current FBAR compliance obligations and to outline the filing extensions granted by the IRS and FinCEN to specific filers:

Calendar Year 2010 FBARs:

Due Date	Guidance	Applies to:
June 30, 2011	<i>Final FBAR Regulations</i>	All U.S. persons that are required to file an FBAR for calendar year 2010, unless FinCEN Notices 2011-1 or 2011-2 applies (see below).
June 30, 2012	<i>FinCEN Notice 2011-1</i> & <i>FinCEN Notice 2011-2</i>	<ol style="list-style-type: none"> A U.S. person identified in FinCEN Notice 2011-1 as one of the following: <ul style="list-style-type: none"> An employee or officer of a regulated entity (an entity listed under Treas. Reg. § 1010.350(f)(2)(i)-(v)), who during 2010 had signature or other authority over, but no financial interest in, a foreign financial account of another entity more than 50 percent owned, directly or indirectly, by the regulated entity (a "controlled person"). An employee or officer of a controlled person, whether foreign or domestic, of a regulated entity who during 2010 had signature or other authority over, but no financial interest in a foreign financial account of the regulated entity, the controlled person (if foreign), or another controlled person of the regulated entity. If the employer is a domestic controlled person, the individual has an exemption, under the FBAR regulations from reporting the financial accounts directly owned by the domestic controlled person. A U.S. person identified in FinCEN Notice 2011-2 as one of the following: <ul style="list-style-type: none"> An employee or officer of an investment advisor registered with the Securities Exchange Commission ("SEC"), who during 2010 had signature or other authority over, but no financial interest in, the foreign financial accounts of persons that are not an investment company registered with the SEC pursuant to the Investment Company Act of 1940.

Calendar Year 2009 and prior year FBARs:

Due Date	Guidance	Applies to:
August 31, 2011	<i>2011 Offshore Voluntary Disclosure Initiative FAQ 17& 18</i>	All U.S. persons that had a financial interest in a foreign financial account, but failed to file a required FBAR, for years 2009 and/or prior are eligible for penalty relief if the delinquent FBARs are filed with an attached explanation by August 31, 2011. This relief applies where taxpayers reported and paid tax on all their taxable income in prior years.
November 1, 2011	<i>IRS Notice 2011-54</i>	All U.S. persons that had signature authority over, but no financial interest in, a foreign financial account who properly deferred filing their 2009 and/or prior year FBARs pursuant to Notice 2009-62 and Notice 2010-23, unless FinCEN Notices 2011-1 or 2011-2 applies.
June 30, 2012	<i>FinCEN Notice 2011-1</i> & <i>FinCEN Notice 2011-2</i>	<p>A U.S. person that had signature authority over, but no financial interest in, a foreign financial account who properly deferred filing their 2009 and/or prior year FBARs pursuant to Notice 2009-62 and Notice 2010-23, and who falls into one of the following categories:</p> <ol style="list-style-type: none"> 1. A U.S. person identified in FinCEN Notice 2011-1 as one of the following: <ul style="list-style-type: none"> • An employee or officer of a regulated entity (an entity listed under Treas. Reg. § 1010.350(f)(2)(i)-(v)), who during 2009 and/or prior years had signature or other authority over, but no financial interest in, a foreign financial account of another entity more than 50 percent owned, directly or indirectly, by the regulated entity (a “controlled person”). • An employee or officer of a controlled person, whether foreign or domestic, of a regulated entity who during 2009 and/or prior years had signature or other authority over, but no financial interest in, a foreign financial account of the regulated entity, the controlled person (if foreign) or another controlled person of the regulated entity. If during 2008 and 2009 the employer was a foreign controlled person, whose accounts were included in the US parent’s consolidated FRAB reporting, and the employee received a CFO letter, the employee was exempt from reporting the accounts directly owned by the foreign controlled person during those years. For any period during 2009 and/or prior years that the employer was a domestic controlled person, the individual had an exemption, under the FBAR regulations from reporting the financial accounts directly owned by the domestic controlled person. 2. A U.S. person identified in FinCEN Notice 2011-2 as one of the following: <ul style="list-style-type: none"> • An employee or officer of an investment advisor registered with the Securities Exchange Commission (“SEC”), who during 2009 and/or prior years had signature or other authority over, but no financial interest in, the foreign financial accounts of persons that are not an investment company registered with the SEC pursuant to the Investment Company Act of 1940.

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