

Global IRW Newsbrief

Information reporting and withholding (IRW)

February 20, 2012

*FBAR filing date extended to June 30, 2013
for certain officers and employees with
signature authority over company accounts*

On February 14, 2012, the Financial Crimes Enforcement Network (FinCEN) released Notice 2012-1, to further extend the due date for certain officers and employees with signature authority over company-owned foreign financial accounts to report those accounts on a Form TD F 90.22-1, *Report of Foreign Bank and Financial Accounts* (FBAR), from June 30, 2012 until June 30, 2013. FinCEN first extended this due date for 2010 FBARs in June 2011. See FinCEN Notice 2011-1 and FinCEN Notice 2011-2.

Observation: *The original extension was granted in response to concerns about the lack of lead time before new regulations would require certain officers and employees who previously had no FBAR filing obligation related to company-owned accounts to now file an FBAR. For more on how officers and employees are affected by the 2011 change in the FBAR regulations, see Global IRW Newsbrief: New FBAR rules significantly expand the number of employees now required to file an FBAR by June 30, 2011.*

An individual is eligible for the extension to report accounts on an FBAR if:

1. The individual is an employee or officer of a US public company, a US subsidiary of a US public company, or certain US regulated entities (e.g., a bank) who has signature or other authority over and no financial interest in a foreign financial account of a controlled person of the entity; or

2. An employee or officer of a controlled person of a US public company, a US subsidiary of a US public company, a US subsidiary of a US public company, or certain US regulated entities who has signature or other authority over and no financial interest in a foreign financial account of the entity, the controlled person, or another controlled person of the entity.

For purposes of the FinCEN notice, a controlled person is a United States or foreign entity more than 50 percent owned (directly or indirectly) by a US public company, a US subsidiary of a US public company, or certain US regulated entities. The FBAR due date for all other individuals remain unchanged.

These rules extend the due date for filing 2011 and prior year FBARs until June 30, 2013, for employees who have signature or other authority over foreign financial accounts of domestic and foreign subsidiaries of their employer, provided the employer owns greater than 50 percent of the subsidiary and the employer is an entity listed in the regulations as an employer eligible for an exception.

The notice also extends the due date for reporting for employees with signature authority who work for a domestic or foreign subsidiary of an entity listed in the regulations as an employer eligible for an exception, provided the entity listed in the regulations as an employer eligible for an exception owns more than 50 percent of the subsidiary, if the employee has signature authority over the accounts of the employer, the more than 50 percent owner of the subsidiary, or any other more than 50 percent owned subsidiary in the group.

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