

FinCEN Notice 2011-2 FBAR Filing Requirement--Extended Filing Date Relating to Officers or Employees of Investment Advisors Registered With the Securities and Exchange Commission

FinCEN is issuing this notice concerning reports of foreign financial accounts (“FBAR”) to provide administrative relief in the case of officers or employees of investment advisors registered with the Securities and Exchange Commission who have signature or other authority over but no financial interest in certain foreign financial accounts.

On February 24, 2011, FinCEN published a final rule that amended the Bank Secrecy Act (“BSA”) regulations regarding reports of foreign financial accounts (the “Final Rule”).¹ The Final Rule addressed the scope of the persons that are required to file reports of foreign financial accounts and further specified the types of accounts that are reportable.

The Final Rule also provided filing relief in the form of exceptions for officers or employees with signature or other authority over certain foreign financial accounts. These exceptions apply only where the officers or employees have no financial interest in the reportable account. One of those exceptions applies to officers and employees of Authorized Service Providers who have signature or other authority over (but no financial interest in) a foreign financial account owned or maintained by an investment company that is registered with the Securities and Exchange Commission.²

¹ Amendments to the Bank Secrecy Act Regulations-Reports of Foreign Financial Accounts, 76 FR 10234 (Feb. 24, 2011).

² 31 CFR 1010.350(f)(2)(iii).

“Authorized Service Provider” means an entity that is registered with and examined by the Securities and Exchange Commission and that provides services to an investment company registered under the Investment Company Act of 1940 (“registered investment company”).

Following the release of the final rule, FinCEN received questions about processing issues in filing the FBAR by the June 30, 2011 compliance date in the case of officers and employees of investment advisors registered with the Securities and Exchange Commission when such individuals have signature or other authority over (but no financial interest in) the foreign financial accounts of persons that are not registered investment companies.

In light of these questions, FinCEN is granting an extension of the filing date to June 30, 2012 to allow officers and employees of investment advisors registered with the Securities and Exchange Commission with signature or other authority over (but no financial interest in) the foreign financial accounts of persons that are not registered investment companies additional time to file FBARs³. The extension is applicable to FBARs for calendar year 2010 and FBARs for calendar year 2009 or earlier calendar years for which the filing deadline was properly deferred under Notice 2009-62, 2009-35 I.R.B. 260, or Notice 2010-23, 2010-11 I.R.B. 441. Questions or comments regarding the contents of this notice may be addressed to the FinCEN Regulatory Helpline at 800-949-2732. General FBAR filing questions may be directed to the IRS hotline at 800-800-2877, option 2, or to FBARQuestions@irs.gov.

Dated: June 17, 2011

_____/x/_____

James H. Freis, Jr.
Director, Financial Crimes Enforcement Network

³ See also, FinCEN Notice 2011-1.