

**UPDATE ON FOREIGN BANK AND FINANCIAL ACCOUNT REPORTING:
IRS ISSUES REVISED FBAR FORM AND INSTRUCTIONS**

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 a Form TD F 90-22.1 (“Report of Foreign Bank and Financial Accounts” or “FBAR”) with the U.S. Treasury Department by June 30 of each year with respect to foreign financial accounts which the person had a financial interest in, or signature or other authority over, during the previous calendar year. As we recently reported, the U.S. Treasury Department issued revised regulations on foreign financial account reporting, which took effect on March 28, 2011, and which were designed to clarify the definitions of certain key terms and the details of the reporting requirements.¹

To implement the revised regulations, the Internal Revenue Service has issued an updated version of Form TD F 90-22.1.² The revised form and instructions are consistent with the revised regulations and must be used to report financial interests and signature or other authority for 2010, for previous years for which a report has not yet been filed, and for amendments to previously filed FBARs.

FBARs for 2010 must be received by the Treasury Department at the usual Detroit, Michigan, post office address designated on the form on or before June 30, 2011. This date is also the FBAR deadline for individuals with signature or other authority over, but no financial interest in, foreign financial accounts in 2009 who deferred their 2009 filings in reliance on previous Treasury Department guidance.³

The revised instructions now also provide a Detroit street address for express delivery of filings. The instructions further state that, as in the past, completed FBARs may be hand-delivered to a local IRS office or to IRS tax attachés at U.S. embassies and consulates, for forwarding to the Treasury Department’s Detroit offices. However, the revised instructions provide that, irrespective of the delivery method, “the FBAR is not considered filed until it is received by the Department of the Treasury in Detroit, MI.”

¹ For a description of the regulations, please see Willkie Farr & Gallagher LLP Client Memorandum, “Treasury Department Issues Revised Rules for Reporting Foreign Financial Accounts” (Mar. 16, 2011), available [here](#).

² The revised form may be viewed [here](#).

³ IRS Notice 2010-23 postponed until June 30, 2011 the deadline for reporting by individuals with signature or other authority over, but no financial interest in, foreign financial accounts for 2009. According to the Treasury Department, individuals who relied on this 2010 Notice and did not file FBARs in 2010 may base their determination regarding the filing of prior year reports on the provisions of the new regulations that are favorable to them, as long as they properly deferred their FBAR filings in accordance with previous Treasury Department guidance.

In addition to filing an FBAR, taxpayers with reportable foreign financial accounts must disclose the existence of such foreign accounts on their federal tax or information returns by checking the appropriate box in response to the foreign financial account (“FFA”) questions on those returns. In conjunction with release of the revised FBAR instructions, the Treasury Department and the IRS issued Notice 2011-31 to provide guidance to taxpayers concerning FFA-related questions on their 2010 returns.⁴ The Notice advises taxpayers filing their federal income tax or information returns on or after March 28, 2011 – the effective date of the revised regulations – to consult the revised regulations when answering FFA-related questions. According to the Notice, taxpayers filing such returns and responding to FFA-related questions before March 28, 2011, could have relied on either the then-existing or the revised regulations.

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⁴ Notice 2011-31, “Instructions for Persons Answering Questions Relating to Foreign Financial Accounts on 2010 Federal Income Tax and Information Returns,” may be viewed [here](#).