



Law Firm Services

Electronic Filing Requirements for Report of Foreign Bank and Financial Accounts (FinCEN Form 114)

PwC's Law Firm Services
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In brief

Effective July 1, 2013, all filers must file *Foreign Bank and Financial Account Reports* ("FBARs") electronically using the BSA E-Filing System maintained by the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"). FBAR Form 90-22.1 has been discontinued and is replaced by FinCEN Form 114.

In detail

Under 31 U.S.C. 5314, the Bank Secrecy Act ("BSA"), any U.S. person or entity ("account holders") with a financial interest in signature authority or any other authority over one or more foreign financial accounts with more than \$10,000 in aggregate value in a calendar year must file Form 114 annually with the Department of Treasury.

This new e-filing requirement affects anyone who expects to file a FBAR on or before June 30, 2014 for reportable foreign financial accounts held during calendar year 2013, as well as anyone filing in future years. The mandatory electronic filing requirement also applies to anyone submitting an original or amended FBAR after June 30, 2013, for 2012 accounts or for accounts of any prior year. FinCEN will not accept paper copies of original or amended FBARs under any circumstance after June 30, 2013. Paper copies received will be sent back.

When, Where and How to file

FBARs must be received electronically by the Department of Treasury by June 30 of the year following the year for which the report is being made.

FinCEN provides exemptions for filing FBARs to specific individuals with signature authority over, but no financial interest in, certain types of accounts. The list of specific individuals who are exempt from filing FBARs can be found in 31 CFR 1010.350(f)(2)(i)-(v). In addition, FinCEN issued extensions to specific individuals for filing FBARs to June 30, 2015, which is addressed on FinCEN Notice 2013-1. Notices 2011-1, 2011-2, 2012-1, and 2012-2 preceded Notice 2013-1 and provide filing extensions for years prior to 2013. All other U.S. persons will be required to file FBARs by the June 30th deadline, including all employees and law firm partners who have obligations to file a FBAR due to their signature authority over the law firm's accounts.

Individuals who are FBAR filers do not need to register for a User ID and password. However, if you are an individual filing FBARs on behalf of an entity, you will be required to register for a User ID and password. The steps in enrolling your entity for BSA E-filing are available at http://bsaefiling.fincen.treas.gov/Enroll_Now.html.



Filers must file FBARs electronically using the BSA E-Filing website which is available at <http://bsaefiling.fincen.treas.gov/>.

There are system requirements for accessing BSA E-filing which can be found at http://bsaefiling.fincen.treas.gov/Why_use_BSA_004.html.

E-filing by Third Parties

To facilitate e-filing by third parties (e.g., attorneys, CPAs, enrolled agents, etc.), FinCEN has also released a new form, Form 114a, Record of Authorization to Electronically File FBARs. This form allows FBAR filers, both entities and individuals, to authorize third parties to prepare and file FBARs using the BSA E-Filing System. This form should be executed by the filer prior to preparation and electronic submission of the FBAR; however, Form 114a is not filed with FinCEN, but is maintained in the account holder's and filer's records, and is to be produced upon request by the Internal Revenue Service or FinCEN.

What's Next

As the June 30th deadline is approaching, firms must assess their FBAR filing requirements and decide whether they will e-file their FBARs independently, or authorize a third party to prepare and file FBARs on their behalf through the BSA E-filing website.

For more information, the FBAR E-filing FAQs are available at <http://bsaefiling.fincen.treas.gov/FAQs.html>.

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