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Fund Managers with Signature Authority over Foreign Bank and Security Accounts Will Need to File an FBAR This Year

The Financial Crimes Enforcement Network (FinCen) recently finalized its Bank Secrecy Act regulations, which require U.S. individuals with signature or other authority over foreign accounts to file a Report of Foreign Bank and Financial Accounts (FBAR). FBARs will be due on June 30, 2011, with respect to foreign accounts maintained in calendar year 2010.

For calendar years 2008 and 2009, the Internal Revenue Service had issued guidance extending until June 30, 2011, the due date for FBARs of individuals that have signature authority over foreign accounts but do not have any financial interest in such accounts. (See [IRS Notice 2010-23](#) and [IRS Notice 2009-62](#).) Based on language in the preamble to the regulations, it seems that the due date for the filing obligations of prior years will not be extended again. Therefore, fund managers that had signature authority over foreign bank or security accounts in 2008 and 2009 will need to file FBARs for such accounts before June 30 of this year, if they did not previously file FBARs as to those accounts for such prior years.

Similar to the proposed regulations, the final regulations reserve on whether an interest in a foreign investment fund—other than a foreign mutual fund (a fund which issues shares available to the general public that have a regular net asset value determination and regular redemptions)—is to be treated as an interest in a foreign financial account. Accordingly, as of now, an interest in a foreign hedge fund or a foreign private equity fund should not be treated as an interest in a foreign financial account and need not be reported on an FBAR.

If you have questions regarding your FBAR filing requirements, please contact your Katten Muchin Rosenman LLP attorney or any of the following members of the **Tax Planning** and **Tax Controversy** Practices.

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