

Alerts and Updates

FINAL RULES TO AMEND THE BANK SECRECY ACT REGULATIONS REGARDING REPORTS OF FOREIGN FINANCIAL ACCOUNTS (FBARS)

February 25, 2011

The Financial Crimes Enforcement Network (FinCEN) of the U.S. Treasury Department, on February 24, 2011, issued its final rules to amend the Bank Secrecy Act regulations regarding the Report of Foreign Bank and Financial Accounts (FBAR) of the U.S. Internal Revenue Service (IRS).

The final rulemaking:

- clarifies whether an account is foreign and therefore reportable as a foreign financial account and also addresses the treatment of custodial accounts;
- revises the definition of signature or other authority to more clearly apply to individuals who have the authority to control the disposition of assets in the account by direct communication (whether in writing or otherwise) to the foreign financial institution;
- clarifies that officers or employees who file an FBAR because of signature or other authority over the foreign financial accounts of their employers are not expected to personally maintain the records of the foreign financial accounts of their employers; and
- clarifies that filers may rely on provisions of this final rule in order to determine their filing obligations for FBARS in those cases where filing was properly deferred under prior Treasury Department regulations.

The full text of the final regulations can be found at www.federalregister.gov/articles/2011/02/24/2011-4048/amendment-to-the-bank-secrecy-act-regulations-reports-of-foreign-financial-accounts#p-3. According to FinCEN, the IRS will soon publish instructions for completing the FBAR form in accordance with the new final regulations.

For Further Information

If you have any questions, please contact [Thomas W. Ostrander](#), the author of this *Alert*; [Hope P. Krebs](#) or [Stanley A. Barg](#) in Philadelphia; [Jon Grouf](#) in New York; [Anthony D. Martin](#) in Boston; any [member](#) of the [International Practice Group](#); [Michael A. Gillen](#) of the [Tax Accounting Group](#) or the attorney in the firm with whom you are regularly in contact.

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