

February 17, 2012

FinCEN Extends Due Date for Certain FBAR Filers

On February 14, 2012, the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) issued Notice 2012-1, which extended the filing deadline for both the 2010 and 2011 Report of Foreign Bank and Financial Accounts (FBARs) to June 30, 2013, for certain officers and employees with signature authority but no financial interest in a foreign financial account. This filing extension applies to the classes of persons that were eligible for the extension of time to file a FBAR pursuant to Notice 2011-1 and Notice 2011-2.

Under Notice 2011-1, the FBAR reporting deadline was extended for officers or employees of either an entity listed below or a controlled person of that entity whose signature authority was over either a foreign-controlled subsidiary or an entity other than the individual's employer. The officer or employee must be an officer or an employee of one of the following entities:

- Banks that are examined by certain specified federal offices or agencies;
- Financial institutions registered with, and examined by, the Securities and Exchange Commission (SEC) or the Commodity Futures Trading Commission;
- Entities that are registered with, and examined by, the SEC that provide services to an investment company registered under the Investment Company Act of 1940;
- Entities with a class of equity securities registered (or American depository receipts with respect to equity securities registered) under § 12(g) of the Securities Exchange Act of 1934; and
- Entities with a class of equity securities listed (or American depository receipts listed) on any U.S. national securities exchange, and U.S. subsidiaries of U.S. entities with a class of listed securities if the U.S. subsidiary is identified on a consolidated FBAR filed by the parent.

Notice 2011-2 provided an extension for certain employees or officers of investment advisers registered with the SEC.

Notice 2012-1 was issued due to questions and concerns received by FinCEN regarding the exceptions for certain individuals under Notices 2011-1 and 2011-2. This additional filing extension may signal that further guidance on these exceptions will be forthcoming.

Click [here](#) for a copy of Sutherland's June 3, 2011 Legal Alert and click [here](#) for a copy of Sutherland's March 4, 2011 Legal Alert.



If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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