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flash Alert

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United States – Some Relieved of FBAR Filing Until April 15, 2017

by KPMG LLP's Washington
National Tax practice,
Washington, D.C. (KPMG LLP
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The U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) recently issued FinCEN Notice 2015-1,¹ to further extend – until April 15, 2017 – the filing due date for certain individuals (employees or officers of specified regulated entities) with only signature authority over, but no financial interest in, certain foreign financial accounts to file an FBAR, or *Report of Bank and Financial Accounts*, FinCEN Form 114 (formerly Form TD F 90-22.1).²

Why This Matters

Companies have a responsibility to gather the necessary information on these corporate accounts. This optional extension, if taken advantage of, will provide a company additional time to assist affected employees and officers with meeting their individual FBAR obligation with respect to these corporate accounts.

FinCEN Notice 2015-1

FinCEN Notice 2015-1, dated December 8, 2015, provides, for the sixth time, an extension to employees and officers of specified regulated entities – including U.S. publicly-traded companies and financial institutions – who have only signature authority over, but no financial interest in, certain foreign financial accounts. This extension comes in light of ongoing consideration of questions regarding the application of the filing requirements to such individuals.

Unlike prior extensions, which extended the due date one year (i.e., to the following June 30), the new extension provides for an April 15 due date in keeping with the July 2015 statutory change to the FBAR's filing deadline.³ The change to an April 15 due date, enacted as part of the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*, is effective for calendar year 2016 FBARs due in 2017.

The FinCEN Notice states:

FinCEN received questions that required additional consideration with respect to the exceptions addressed in these Notices. FinCEN is considering regulatory changes to address such questions; therefore, FinCEN is further extending the filing due date to April 15, 2017, for individuals whose filing due date for reporting signature authority was previously extended by Notice 2014-1. This extension applies to the reporting of signature authority held during the 2015 calendar year, as well as all reporting deadlines extended by previous Notices 2014-1, 2013-1, 2012-1 and 2012-2, along with Notices 2011-1, and 2011-2.

Prior FinCEN notices provided similar extensions of time.⁴

KPMG Note

Filing of FBARs still remains an obligation for all other individuals. A U.S. person must file an FBAR if he or she has a financial interest in or signature authority over any financial account(s) outside the United States and the aggregate maximum value of the account(s) exceeds \$10,000 at any time during the calendar year. A U.S. person includes a U.S. citizen or resident of the United States.

Footnotes:

- 1 See: <https://www.fincen.gov/whatsnew/pdf/20151208.pdf> .
- 2 FBAR Form 114 can be completed by accessing FinCEN's BSA E-Filing System Web site at: <http://bsaefiling.fincen.treas.gov/main.html> .
- 3 See GMS [Flash Alert 2015-097](#) (August 5, 2015).
- 4 According to footnote 2 in FinCEN Notice 2015-1, on May 31, 2011, FinCEN issued Notice 2011-1 (revised on June 2, 2011), to extend to June 30, 2012, the due date for filing the FBAR, for certain individuals with signature authority over but no financial interest in one or more foreign financial accounts, specifically individuals whose FBAR filing requirements may be affected by the signature authority filing exceptions in 31 CFR § 1010.350(f)(2)(i)-(v). On June 17, 2011, FinCEN issued Notice 2011-2 similarly extending the FBAR filing due date to June 30, 2012, for certain employees or officers of investment advisers registered with the Securities and Exchange Commission who have signature authority over but no financial interest in certain foreign financial accounts. On February 14, 2012, FinCEN further extended the FBAR due date to June 30, 2013, via FinCEN Notice 2012-1, for filers that met the requirements of Notice 2011-1 or 2011-2. FinCEN has provided identical extensions each year since then.

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The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

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