

Important Notice about Mandatory Electronic Filing of Reports to FinCEN

Temporary General Exemption From Mandatory Electronic Filing of the Report of Foreign Bank and Financial Accounts (FBAR),

Process for Requesting Limited Duration Exemptions from Mandatory Electronic Filing of most other BSA Reports

February 24, 2012

On February 23, 2012, the Financial Crimes Enforcement Network (FinCEN) submitted to the Federal Register, “Electronic Filing of Bank Secrecy Act Reports; Final Notice,” hereinafter “the Federal Register Notice.” As detailed in the Federal Register Notice, financial institutions must electronically file all reports except the Report of International Transportation of Currency or Monetary Instruments (CMIR) and the Report of Cash Payments Over \$10,000 Received in a Trade or Business (Form 8300) by July 1, 2012. Additionally, FinCEN previously [announced](#) on December 20, 2011, that it was extending the deadline for financial institutions’ mandatory use of FinCEN’s new Currency Transaction Report (CTR) and Suspicious Activity Report (SAR) to March 31, 2013.

FBAR

FinCEN is announcing today a general exemption from mandatory electronic filing of the Report of Foreign Bank and Financial Accounts (FBAR) until July 1, 2013. The temporary exemption notwithstanding, FinCEN encourages FBAR filers to voluntarily take advantage of the benefits of using the BSA E-Filing System. This temporary electronic filing exemption does not relieve any person of the obligation to file an FBAR and does not affect the required date by which any given FBAR must be received by the Department of the Treasury.

Other Reports

Additionally, consistent with the Federal Register Notice, FinCEN is announcing today a process by which institutions may apply for a limited duration hardship exemption from the requirement to file reports electronically beginning July 1, 2012. Through this process, FinCEN will grant a very limited number of temporary exemptions to institutions that follow the below procedures and that demonstrate a substantial hardship in meeting the July 1, 2012, requirement.

Financial institutions must contact FinCEN by following the procedures set forth below in order to be considered for a temporary exemption from the requirement to file electronically from July 1, 2012.

Taking into account industry feedback received in response to our September 16, 2011, Federal Register Notice [request for comment](#) on mandating electronic filing of reports required to be

filed under the Bank Secrecy Act (BSA), FinCEN will consider exemptions for the following circumstances:

A: Money services business and small credit unions lacking internet connectivity: Certain money services businesses may currently lack internet connectivity *and* expect to file a de minimis number of reports with FinCEN per year. These institutions may submit a hardship exemption request for additional accommodation to arrange for the electronic submission of reports to FinCEN. No temporary exemption granted to a money services business in this situation will extend beyond March 31, 2013.

FinCEN also understands from industry comments there are a limited number of small credit unions that do not have internet connectivity within their financial institution. As a group, these credit unions file a minimum number of reports to FinCEN each year. These institutions may submit a hardship exemption request for additional accommodation to arrange for the electronic submission of reports to FinCEN. No temporary exemption granted to a credit union in this situation will extend beyond March 31, 2013.

B: Major system conversion to enable batch and computer-to-computer CTR filing: We understand from comments received and discussions with industry that certain financial institutions may currently have the technical capacity to register for BSA E-Filing and file reports using the discrete Adobe-based forms, but utilize aggregation systems that are currently incompatible with the BSA E-Filing System's batch and computer-to-computer reporting capabilities. These systems currently generate large volumes of CTRs or Currency Transaction Reports by Casinos (CTRCs) per month.

FinCEN expects that few institutions are in this situation; however, such requestors may be granted a temporary exemption until the aggregation system issues are resolved, but through no later than December 31, 2012. This exemption relates only to aggregation system issues with the filings of the CTR and the CTRC.¹

After December 31, 2012, financial institutions that received an exemption to provide additional time for major system conversions that have not yet completed transitions to electronic batch or computer-to-computer filings will need to file all required reports with FinCEN via discrete electronic filing until such transitions are complete.

C: Other extraordinary circumstances: FinCEN will consider requests for temporary hardship exemptions based upon other extraordinary circumstances, but FinCEN does not expect to grant a significant number of such exemptions. Financial institutions requesting such an exemption must certify that the exemption request is not solely due to an institution's need to make changes to its internal review processes, training, or revisions to its anti-money laundering (AML)

¹ Such institutions would use the BSA E-Filing System's Adobe-based forms to discretely file SARs and the Designation of Exempt Person until such time as they are able to convert to batch or computer-to-computer filings of these reports.

program. FinCEN may request further information or documentation from the institution, and may contact the institution's primary regulator with respect to information received. Generally, FinCEN does not expect to grant such exemptions beyond March 31, 2013.

From other comments received by industry on mandating electronic filing of BSA reports, FinCEN acknowledges that financial institutions may at times, and on limited occasions, have ad hoc administrative difficulties in submitting BSA reports to FinCEN electronically within the required timeframes. These potential administrative difficulties will not meet the substantial hardship criteria for obtaining an exemption from the mandate to file BSA reports electronically. However, when such difficulties occasionally arise, financial institutions should contact FinCEN's Regulatory Helpline at 1-800-949-2732 to make FinCEN aware of the compliance concerns and to determine the best option to ensure the required information is submitted in the most expedient manner.

Instructions for Submitting a Request for Temporary Exemption

In order to receive consideration, all exemption requests must be made in writing and include the following:

- The financial institution's legal name, State, and EIN/SSN;
- Type of financial institution (i.e. depository institution, money services business, casino);
- Primary Federal regulator (this is "FinCEN/IRS compliance examination" for all money services businesses and casinos);
- Certification of one of the following circumstances:
 - A: Money services business or small credit union lacking internet connectivity: The requesting financial institution is a money services business or small credit union that lacks Internet connectivity *and* expects to file a de minimis number of reports per year.
 - B: Major system conversion to enable batch and computer-to-computer currency transaction reporting: The requesting financial institution utilizes an aggregation system that is currently incompatible with the BSA E-Filing System's batch and computer-to-computer reporting capabilities, *and* its systems automatically generate a large volume of CTRs or CTRCs per month. The financial institution requests an exemption with respect to filings of the CTR/CTRC *only*.
 - C: Other extraordinary circumstance: The financial institution is making a hardship exemption request due to another extraordinary circumstance. The exemption request is not solely due to an institution's need to make minor changes to its internal review processes, training, or revisions to its AML program.
 - Specify
- Duration of the requested exemption from July 1, 2012 (i.e. three months, six months, nine months);

- The name, title, phone number, and email address (if available) of a point of contact.

In addition to the above items, FinCEN may consider other variables, including an institution's filing history, previous E-Filing enrollments, and how it files reports with other State and Federal regulatory agencies.

Institutions must request these exemptions on their own behalf; however, multiple requests may be submitted in aggregate.

Timing

For all exemption requests that are emailed or postmarked by **March 26, 2012**, FinCEN will make best efforts to notify the requesting institution of its decision no later than **April 25, 2012**.

How to Submit an Exemption Request

FinCEN requests, but does not require, that institutions use the below template and submit the exemption request to ExemptionRequest@fincen.gov. Use of the template will enable faster processing by FinCEN of your exemption request.

Alternatively, institutions may mail exemption requests to: Attn: E-Filing Exemption Request, Financial Crimes Enforcement Network, Regulatory Policy and Programs Division, P.O. Box 39, Vienna, VA 22813. Please direct any questions regarding this notice to the Regulatory Helpline at (800) 949-2732.

[Request Template](#)

Knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing that it contains any materially false, fictitious, or fraudulent statement or entry, is punishable by fine or imprisonment not to exceed 5 years or both. See 18 U.S.C. 1001.