

EXAMINER GUIDANCE – FBAR E-File and Delinquent or Corrected FBARs

1. The Report of Foreign Bank and Financial Accounts (FBAR) must be filed electronically effective **July 1, 2013**.
2. Examiners **should no longer secure any paper** delinquent or corrected FBARs after **June 30, 2013**.
3. Examiners can instruct filers to E-file the FBAR(s) by giving the filers the information below.
4. Filing data is available on the database within 48 hours. Examiners can verify the filing on WebCBRS or the FinCEN Portal.

FILER INFORMATION

Before being able to use the service, FBAR filers must sign up for BSA E-Filing and receive an account.

Instructions for FBAR filers on how to enroll in the BSA E-Filing System are at http://bsaefiling.fincen.treas.gov/Enroll_Individual.html

General information is available at the FinCEN BSA E-Filing System home page "Welcome to the BSA E-Filing System" at <http://bsaefiling.fincen.treas.gov/main.html>.

Help Information

If a filer has questions about electronic filing, direct them to call the BSA E-Filing Help Desk at (866) 346-9478 (option 1) or email to BSAEFilingHelp@fincen.gov. The Help Desk is available Monday through Friday from 8 a.m. to 6 p.m. EST. Please note that the Help Desk is closed on Federal holidays. There is no non-toll free number for the BSA E-filing Help Desk. However, International callers can use the email address or they can call the Regulatory Helpline number provided below.

If unable to E-file, filers may contact the FinCEN Regulatory Helpline at (800) 949-2732 to request an exemption. Filers can also email to BSA_Resource_Center@fincen.gov. Filers in foreign locales may reach the helpline by calling the non-toll free number at (703) 905-3975.

For questions about completion of the FBAR, filers can email questions to FBARquestions@irs.gov or call (866) 270-0733. International filers may call (313) 234-6146.

Advantages of the E-Filing System

The Financial Crimes Enforcement Network (FinCEN) Bank Secrecy Act (BSA) E-Filing system:

- Currently supports electronic filing of discrete FBAR reports through a secure network
- Will allow batched FBAR filing soon:
 - The test system should be available in mid-July 2013
 - Should be fully implemented in October 2013
- Has on-line error resolution which eliminates error correspondence
- Sends a verification of filing to the filer
- Eliminates security concerns related to mail delivery
- Allows users to send and receive secure messages to and from FinCEN
- Is used to issue advisories and system updates from FinCEN to the user community

Limitations When E-filing FBAR

There are limitations identified as a result of the need to convert the FBAR to electronic filing:

- The ability for attachments to accompany an FBAR filing is not available. These attachments could be valuable to compliance and enforcement efforts but will, with e-filing, remain part of the FBAR recordkeeping requirement, and must be produced upon request by the IRS or FinCEN.
- This limitation is mitigated by the availability of a text box where filers can, for example, offer an explanation as to why the filing is late.
- Currently, E-filing does not allow for more than one signature. For example, one spouse cannot sign for both spouses when reporting joint interest in an account. FinCEN is developing an electronic authorization form, FinCEN Form 114A, FINCEN BSA E-Filing Signature Authorization Record. The form should be available in October 2013. A spouse will be able to use FinCEN Form 114A to authorize the other spouse to file a joint FBAR for both spouses.

The Signature section of FinCEN Form 114A will provide information blocks allowing a third party preparer to file the report on behalf of the account owner.

An authorized filer can be anyone that the foreign account owner designates to file the report such as a CPA, an Enrolled Agent, or a law firm. If the third-party filer has been provided documented authority by the legally obligated filers to sign and submit FBARs on their behalf through the BSA E-Filing System, that third-party filer can do so through a single BSA E-Filing account established for the attorney, Enrolled Agent, or CPA. If such authority is not provided, the filings must be signed and submitted through a BSA E-Filing account unique to each client.

The voluntary Form 114a will not be available until July for testing; however, CPAs/law firms/enrolled agents can utilize another document (such as a POA, in-house document, letter, etc.) so long as it indicates that the client has authorized them to E-File an FBAR on their behalf. They must maintain this documentation and must provide it upon request from IRS or FinCEN. CPAs/law firms/enrolled agents must register as institutions on the BSA E-Filing System. FinCEN has confirmed that a spouse may also use this method to authorize the other spouse to file a joint spousal FBAR, until Form 114a is available.

BSA E-FILING RESOURCES

- IRS examiners and filers can use the test site to familiarize themselves with the BSA E-Filing System (includes tours, FAQs, etc.) at <http://sdtmut.fincen.treas.gov/main.html>
- The answers to many of the more commonly asked questions regarding use of the BSA E-Filing System are found at <http://bsaeiling.fincen.treas.gov/FAQs.html>
- Also located on FinCEN's website are new releases, brochures, etc., which can be a resource in regards to E-filing:
 - BSA E-Filing System at <http://www.fincen.gov/forms/e-filing/>
 - Mandatory E-Filing FAQs at http://www.fincen.gov/forms/e-filing/Efiling_FAQs.html
 - FinCEN's E-Filing brochure - http://www.fincen.gov/whatsnew/pdf/E-File_Brochure.pdf



- Introduction to the BSA E-Filing System webinar at <http://treas.yorkcast.com/webcast/Viewer/?peid=a93e7d2b1a07427a93b0cf2e764a57421d>

- FinCEN published in the Federal Register on March 5, 2013 a notice of proposed changes, which included direction that each spouse should file separate FBARs.

<http://www.gpo.gov/fdsys/pkg/FR-2013-03-05/pdf/2013-04936.pdf>

The BSA E-File system was not designed to be a recordkeeping system. The FBAR data is received by the e-file system and then stored in the system-of-record. It is data available on a transcript to appropriately authorized users.

FinCEN FAQs

1. Detroit says they have been told to process paper FBARs through CYE 2013. Is July 1 the date our examiners should cease accepting paper FBARs? Or is there some leeway for examinations already in progress, where FBARs may have been solicited but not yet received, etc.?

A.) Yes, examiners should stop accepting paper reports on July 1st. Paper filings received post June 30th will be processed by ECC-D until December 31, 2013, but filers would technically not be in compliance with the E-Filing requirement. FinCEN is still hammering out processing details for January 1, 2014 and beyond.

2. Can FBAR filings be printed out by the filer at a later date by signing into BSA E-file? Somewhere I thought I read that BSA E-file did not store filings

A.) No, the filer cannot print out an FBAR filing at a later date by signing into the BSA E-Filing System. They are required to save a copy of their report electronically (on their local PC) before they can submit it so they should have a local copy. The only information stored in the system is tracking information (when the filing was submitted and status).

3. If not, filers must print out the form BEFORE submitting it, is that correct? Batch filers must print or save to a file BEFORE batch filing, correct?

A.) The filer CAN print out the form before submitting, but they are not required to. They have to save an electronic copy before they can submit it. They can print the saved copy at any time if necessary.

For batch filers, as these are text based files, there is not a need to print these out as the information is not displayed in an easily readable format. Batch filers must save a copy of the batch before submission. FinCEN's vision is that large tax preparers will integrate their product (TurboTax, for example) with FinCEN's FBAR

and provide a print option to their customers who are using their product. All of the data they collect for all of their customers will be extracted via their backend systems and submitted to FinCEN via a batch filer. FinCEN does not foresee small tax preparers or individuals using the batch filing format as they would need to have some sort of program to create the batch files.

4. The acknowledgment CAN be accessed later by signing into BSA E-filing with the user's normal ID and password, correct? How long will the acknowledgment remain on the BSA E-filing system?

A.) Yes, the acknowledgement CAN be accessed by signing into the BSA E-Filing System with the user's normal ID and password. The acknowledgement will remain on the system for 5 years.

5. What information appears on the acknowledgment?

A.) For discrete filers, the acknowledgement is basically a secure message indicating the BSA ID (identifier) assigned to their filing. This is the official number assigned to their filing.

For batch filers, they receive a text file containing the BSA IDs for all of the FBARs sent in the initial filing along with any error codes (i.e., missing data or invalid data). Batch filers would process the acknowledgement through their backend systems to provide the BSA ID to their customers who are only using their product (TurboTax, for example).

6. Is FinCEN going to correspond with filers who continue to file paper FBARs after the July 1 date? Or Detroit?

A.) Since FinCEN will still process paper through December 31, 2013, FinCEN can track paper filers via System of Record (SOR) reports. FinCEN will correspond with paper filers if necessary.

7. If an entity refuses to, or fails to, comply with the examiner's request to E-file delinquent FBARs, does FinCEN want this information? Or is the ball then in our court and IRS should open/continue an FBAR examination and consider penalties?

A.) FinCEN will be able to see who has paper filed post June 30th by reviewing SOR reports; therefore, IRS doesn't need to notify FinCEN if a filer refuses to electronically file. IRS should continue to manage penalties for other FBAR deficiencies.