



# Treasury Further Extends FBAR Filing Deadlines for Employees with Signature Authority over Foreign Financial Accounts

## PRACTICE AREAS

International Tax

## FinCEN Notice 2016-1

*IP&B Client Alert*

January 11, 2017

On December 16, 2016, the Financial Crimes Enforcement Network ("FinCEN") released Notice 2016-1 (the "Notice") further extending the filing deadline for certain Report of Foreign Bank and Financial Accounts ("FBAR") filings. The Notice applies to individuals identified in Notice 2015-1, extending the FBAR filing due date to April 15, 2018.

Current regulations provide an exemption from the FBAR reporting requirement for officers and employees that have signature authority over foreign financial accounts of "covered entities" if the officer or employee has no financial interest in the foreign account. Specifically, officers and employees of certain federally regulated entities and publicly traded companies are exempt from reporting their signature authority over foreign financial accounts owned by their employer or the employer's U.S. subsidiary if the subsidiary is included in a consolidated FBAR filed by the parent. Situations not covered by the employee reporting exemption include (1) foreign accounts owned by *foreign* subsidiaries of covered entities; and (2) employee signature authority over a foreign account owned by an entity other than the person's employer (*i.e.*, signature authority over an account owned by the employer's publicly traded parent or sister entity).

In response to perceived shortcomings in the employee exemption provisions, the IRS issued a series of notices providing temporary relief addressing the situations described in (1) and (2) above. These provisions covered: (i) employees of a subsidiary (including foreign subsidiaries) of a publicly traded corporation who have signature authority over (and no financial interest in) a foreign financial account



## | 2 | Treasury Further Extends FBAR Filing Deadlines for Employees with Signature Authority over Foreign Financial Accounts

of the parent, the subsidiary or another controlled person of the parent, and (ii) employees of a publicly traded parent with respect to signature authority over domestic or foreign subsidiaries (*i.e.*, an employee of the parent where the foreign account is owned by the subsidiary, a person that is not the employee's employer). The most recent of these temporary provisions, FinCEN Notice 2015-1, extended this filing relief to April 15, 2017. Notice 2016-1 further extends the FBAR filing deadline for individuals covered by Notice 2015-1 until April 15, 2018.

This most recent filing extension is related to proposed regulations released in March 2016 that broaden the employee exemption provisions in current regulations. These proposed regulations would eliminate the requirement for officers, employees, and agents of any U.S. entity to report foreign financial accounts owned by the entity over which the officer, employee, or agent has signature authority solely due to their employment when those accounts are required to be reported by their employer, or any other U.S. entity within the same business structure as their U.S. employer. If approved, the proposed regulations will provide a broader exemption than current regulations in that the proposed exemption would apply to any type of entity (without regard to whether the entity was publicly traded) and would apply to accounts owned by parties that are related to the employer. (Please see the IPB client alert regarding the proposed FBAR regulations [here](#).)

Notice 2016-1 was released because the proposed regulations have not yet been finalized and it may signal that the final regulations are not imminent. The Notice confirms that beginning with the 2016 tax year, the due date for FBAR reporting will be April 15 of the year following the December 31 report ending date (previously, the FBAR was due to be received by June 30 following the reporting year). An automatic six-month extension is available.