

Electronic Filing Mandate for BSA Forms

The Financial Crimes Enforcement Network (“FinCEN”) issued a proposal to mandate electronic filing of certain BSA forms, no later than July 1, 2012. This mandate will apply to the following BSA forms:

- Suspicious Activity Reports by depository institutions (SAR-DI),
- Currency Transaction Reports (CTRs),
- Designation of Exempt Person Forms (DOEP), and
- Report of Foreign Bank and Financial Accounts (FBAR).

E-Filing is a free, web-based electronic filing system that allows financial institutions to submit BSA forms, through FinCEN’s secure network.

This mandate will affect all entities subject to the Bank Secrecy Act, including depository institutions.

Depository institutions can go to FinCEN’s website and register (<http://bsaefiling.fincen.treas.gov/>)

Depository institutions also can contact the BSA E-Filing Help Desk for questions regarding enrollment at 1-866-346-9478 (option 2).

FinCEN estimates that once a depository institution completes the registration process, it will take another 5-7 days before they will be granted access to the E-filing system.

Temporary Exemption Process

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.

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:** 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.

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.

Such institutions would use the BSA E-Filing System's Adobe-based forms to 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.

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 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) program. FinCEN may request further information or documentation from the institution, and may contact the institution's primary regulator with respect to information received.

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);
- The name, title, phone number, and email address (if available) of a point of contact.
- Certification of one of the previously noted circumstances:

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.

How to Submit an Exemption Request

FinCEN requests, but does not require, that institutions use the [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.