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Do You Have an Interest in or Authority over a Foreign Bank or Financial Account?

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Last June we sent out a newsletter regarding the Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 (also known as "FBAR"), and it is almost time again to make that annual filing. The form must be submitted by U.S. persons with authority over or a financial interest in a financial account outside the U.S.

There are significant penalties for non-reporting. In the past, the IRS has been willing to waive penalties where taxpayers have been unaware of the filing requirement. However, now that the IRS has made information available to the public regarding this issue, it has become increasingly difficult to get penalties waived.

It may not be simple to determine whether you are required to file this report. The form instructions do not address many questions that have arisen in particular situations. The requirement to file involves a set of decision points that may depend on specific definitions of key terms. The IRS recently issued final regulations clarifying some of the issues that have been raised by taxpayers. The deadline for filing the FBAR for 2010 is June 30, 2011. There are no extensions.

We have provided a [flowchart](#) indicating the major decision points you need to review to determine if there is a need to report your accounts.

After following the decision points in this flow-chart, if you determine that you may need to file, please contact either [Peter Trieu](#) or [Marcia DeForest](#) for further assistance.

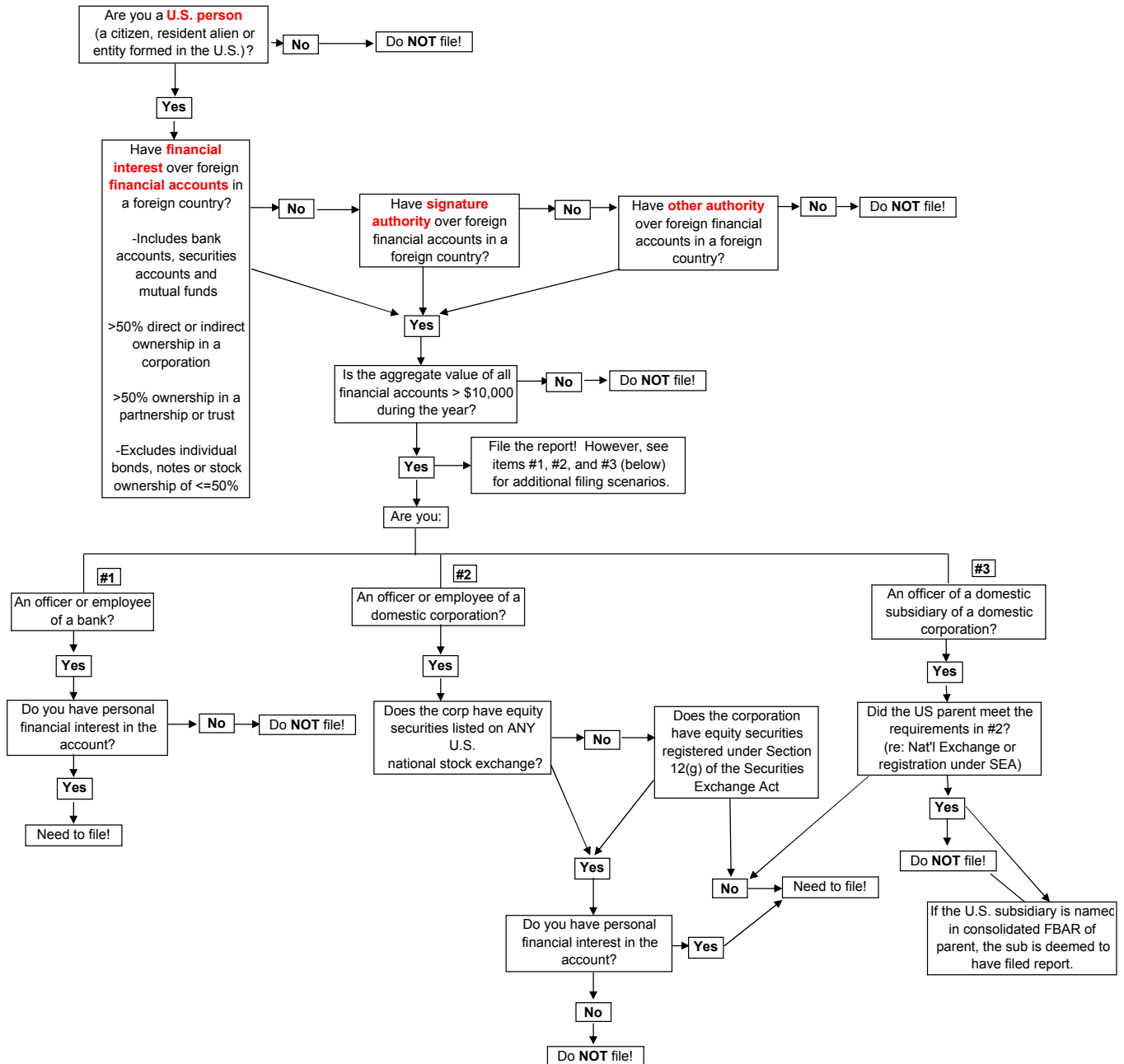
Firm newsletters on other subjects can be viewed at our [website](#).

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FBAR Decision Tree



Notes:

- 1 For 2009 and prior years, the filing deadline is delayed until June 30, 2011. Otherwise, the due date is June 30, of the following year.
- 2 A "financial interest" may be indirect or direct. A person who holds legal title or is owner of record has a direct financial interest.
- 3 **Bold and red** items are key terms.
- 4 Noncompletion of the form can result in significant civil and criminal penalties.
- 5 Mutual funds need to be reported if they are available to the public.
- 6 Regulations reserve on the treatment of investment funds other than mutual funds or similar pooled funds.