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Foreign Bank Account Reports - How to Manage the Past

June 23, 2011

The Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 (also known as "FBAR") for 2010 is due this June 30 (next Thursday). This form must be filed by all U.S. persons with a financial interest in or authority over a foreign financial account. Because this form is not part of one's tax return it is often overlooked, particularly by U.S. tax residents residing abroad where U.S. tax reporting expertise may be limited. Until recently, many taxpayers required to file this form were not even aware of their filing obligation.

This is an annual filing requirement, so failure to file this form in past years will expose one to substantial penalties that could be as high as 300% of the balance in one's foreign financial accounts.

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.

Practical Guidelines for Dealing with Past Years Delinquencies

It is important to correct past years delinquencies in order to protect against the above penalty. Below are the options available for handling these delinquent FBAR filings. The variances between the options essentially revolve around the uncertainty of an IRS audit, along with other risk factors that should also be considered:

1. Potential assessment of a non-willful penalty of \$10,000 each year for up to six years;
2. Potential application of the willful penalty of 50% of account balances for each of up to the past six years; and
3. Costs associated with proceeding with one option over the other.

Option 1 – Do Nothing One could do nothing with regard to past years, and simply be in compliance going forward. This approach is not advisable. The statute of limitation on FBAR filings is six years. Accordingly, the exposure to potential penalties is huge. Upon audit, penalties and criminal charges would likely be imposed, and the taxpayer would have nothing to show the IRS to argue against such heavy penalties.

Option 2 – File Past FBARs from 2005 Forward A taxpayer could simply file past years' FBARs for 2005 through 2010 (six years). This option is simple, low cost, and should limit penalties to \$10,000 per violation. The disadvantage to this option is the potential for assessment of FBAR penalties as high as 300% of your account balances. For example, if one left \$100,000 in a foreign account, the IRS could impose penalties of 50% x \$100,000 x 6 years = \$300,000.

This is not a likely outcome as the IRS would need to prove taxpayer willfully violated the FBAR filing requirements to properly assess this penalty. It is the IRS's burden of proof to show a willful violation of the FBAR filing requirement. In this case, showing willfulness requires the IRS to show that the taxpayer knew of the requirement to file, and decided not to comply by filing the appropriate form. Also helpful would be for the taxpayer to obtain an advisory letter from a tax professional recommending this course of action. Whenever one is confronted with penalties, a key element of getting penalties waived is to indicate that one is following the advice of a qualified advisor.

Option 3 – File Past FBARs (6 Years) and Amended Returns (3 years) In addition to filing past years' FBARs, a taxpayer may also consider filing amended returns to report unreported income in the foreign accounts. This option is also relatively simple, but is slightly more costly than Option 2 above due to increased professional fees for preparing amended returns and the payment of additional tax. However, this approach provides greater arguments, in the event of an audit, to limit possible penalties.

The ability for the IRS to impose the 50% penalty still exists, but is significantly lowered as a result of one's good faith filing of the amended returns. This is particularly true if the unreported income is minimal.

Although the statute of limitations for FBAR filings is six years, the statute of limitations for assessment of additional tax is generally only three years. Accordingly, the IRS should not be able to reach back further than three years to assess additional tax. If, however, more than 25% of one's income is not properly reported in one's returns, the statute is six years. Filing these amended returns will reduce interest owing on additional taxes assessed, but more importantly filing shows a good faith effort to comply with the reporting rules. Showing good faith to the IRS may be valuable in the event of an audit to augment an argument for non-willful violations.

Such filings should be accompanied by a letter explaining the reasons for the amended returns and delinquent FBAR filings. It also may allow the taxpayer to argue reasonable cause for the failure to file FBARs, which might reduce the penalties further.

At the same time, however, it also brings greater attention to the taxpayer. These so called "noisy" filings are typically viewed by actual IRS personnel as are most amended returns. Additionally, such filings should be accompanied with a letter explaining the amended filing and delinquent FBAR filings. Together, the package may call attention to itself.

Regardless, this approach is likely the most professional treatment, and should result in the most efficient outcome.

Option 4 – Voluntary Disclosure The Offshore Voluntary Disclosure Initiative ("OVDI") of 2011 (offering a 25% penalty on the highest balance in one's foreign accounts in the past eight years in lieu of all other back year reporting penalties) is currently in process, and open to participation until August 31, 2011. There is a 90 day extension of that date in limited circumstances. Additionally, the voluntary disclosure program itself will still exist beyond that deadline. The penalties that may be assessed outside the 2011 OVDI program, however, are potentially much higher.

The principal advantage offered by the OVDI program is exemption from criminal prosecution. In a majority of the cases, however, criminal prosecution is not an issue as the unreported income is often insignificant. A second advantage of the OVDI program is certainty in the amount of penalties due (25% of highest balance in past eight years plus value of certain property; 12.5% for account balances below \$75,000). The property to which the penalty applies includes property acquired with unreported income and/or property generating unreported income.

A disadvantage is that these penalties are non-negotiable. There is absolutely no ability within the program to argue a non-willful violation regardless of the taxpayer's circumstances. There is no ability to maneuver or even appeal these very punishing and inequitable penalty assessments.

Taking advantage of the OVDI program requires amending tax returns for the past eight years (2003-2010) to report all unreported income.

Additional tax, penalties and interest would be assessed on outstanding taxes. On top of that would be the 25% (or 12.5%) FBAR penalty. Despite the general six years statute of limitations on income tax filings, the IRS requires a waiver of that statute for taxpayers to enter the program.

Taxpayers that entered the 2009 program are being hit with significant penalties and are now considering withdrawing from the program and processing their amended returns and FBARs through the normal audit process where penalties can be reviewed and negotiated. This may be a good option for taxpayers that were not negligent, but were merely uniformed about the FBAR reporting.

Conclusion

There are many options to the taxpayer to manage one's delinquent FBARs. The IRS wants taxpayers to participate in the OVDI program. Participating in the OVDI program is definitely the answer if there is a real risk of criminal prosecution. Often times, however, the OVDI program may prove unwise and overly costly to the taxpayer. Indeed, numerous clients in the program desire to withdraw from the program, but fear the world "outside".

The better approach may be to simply file delinquent FBARs, and amend returns as necessary to report associated unreported income. If audited, the taxpayer will then be able to argue that their oversight was non-willful, which is not available in the program. The penalties issuing from a successful argument will likely be far below the 25% penalty being offered in the OVDI program by several magnitudes. The risks associated with staying out of the program are present, but according to the case law are not great. Outside the program, taxpayers enjoy the freedom to argue and negotiate reduced penalties.

Rowbotham and Company Presentation Rowbotham and Company participated in a panel discussion at the Indian Community Center in Silicon Valley on June 2, 2011. The discussion involved investing abroad and related U.S. tax reporting implications. [Our presentation dealt with the very time sensitive issue of reporting foreign bank accounts \(FBAR filings\), which are due June 30.](#)

You can view the slides for our presentation [here](#).

For further information, contact:

[Peter Trieu](#)

[Harriet Leung](#)

[Brian Rowbotham](#)

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

Rowbotham & Company is an accounting and consulting firm that provides domestic and international accounting, tax and consulting services to individuals and businesses including closely held corporations, investment partnerships and funds, venture backed technology enterprises and large multinational companies, both public and private.

The firm is registered with the Public Company Accounting Oversight Board (PCAOB), and is qualified to practice before the SEC. Rowbotham & Company has offices in San Francisco and the Silicon Valley and is a member of the AICPA and Polaris International, a worldwide association of accounting and consulting firms.

[Click here](#) for more information about our firm and its service areas.

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Foreign Bank Account Reports (FBAR)

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Reporting Requirement

- U.S. persons holding any financial interest in, or authority over, bank or other financial accounts in a foreign country must report these accounts
- Form TD F 90-22.1
 - Must be received by June 30 following year in which aggregate account balance exceeds \$10,000
- No extensions of time to file
- Bank Secrecy Act (Title 31)
- FinCEN delegated enforcement duties to IRS in 2003



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Persons Who Must File

- U.S. person
 - U.S. citizen or resident
 - An entity formed under laws of U.S. (corporations, partnerships, LLCs, estates, trusts)
- Persons in and doing business in US
 - Must be conducting business on regular and continuous basis
 - Applies beginning with 2010 filing



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Financial Accounts

- Financial accounts include bank or securities accounts, insurance and annuity policies with a cash value, mutual funds or similar pooled funds
- Exceptions-
 - Bonds, notes, stock certificates
 - hedge funds, currently (but see FATCA)

Foreign Country

- Any geographic area outside of the United States
- Situs of the account, not the situs of the institution is determinative
 - Account with a foreign bank at a branch in US is not a foreign account
 - Account with a US bank at a branch outside US is a foreign account

Financial Interest

- A U.S. person has a financial interest in account if owner of record is
 - Such U.S. person
 - Person acting on behalf of the U.S. person
 - An entity majority owned by the U.S. person
 - A grantor trust where U.S. person is owner
 - A trust in which U.S. person has majority present beneficial interest



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Signature or Other Authority

- An individual has signature or other authority if he has authority (alone or in conjunction with another) to control funds or other assets in a financial account by direct communication (whether in writing or otherwise) to the person maintaining the account
- The test is whether the financial institution will act upon a direct communication from the individual regarding the *disposition* of assets in the account (*i.e.* investment authority excluded)



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Exceptions from Filing

- Officers/employees as to company accounts of following:
 - Banks subject to U.S. financial regulation
 - Publicly traded companies
 - Financial institutions subject to SEC
 - Companies with securities registered under §12(g) of the SEA
 - Companies with more than \$10M in assets and more than 500 shareholders
- Officers/employees of foreign company, and who reside in foreign country must only complete identification portion of form
- Corporations or other entities that own majority interest in other entity can file consolidated report



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Exceptions from Filing (Cont'd)

- Persons with financial interest or authority over 25 or more accounts need only report the number of accounts and certain basic information
 - Identifying information
 - Accounts being reported
- Report by filing spouse satisfies requirement of non-filing spouse over all joint accounts



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Penalties

- Penalties for failure to file:
 - Willful violation- greater of \$100k or 50% of highest balance in account
 - It is possible that penalties may exceed the account balance
 - Non-willful violation- \$10,000
 - Penalty can be avoided for reasonable cause if income from account was reported
- Criminal penalties:
 - Willful violation- \$250,000 and/or 5 years prison
 - Willful violation while violating another law or pattern of illegal activity- \$500,000 and/or 10 years prison



Penalties (Cont'd)

EXAMPLE: Assume taxpayer has the following amounts in a foreign account over a period of years.

Year	Amount on Deposit	Interest Income	Account Balance
2005	\$1,000,000	\$50,000	\$1,050,000
2006		\$50,000	\$1,100,000
2007		\$50,000	\$1,150,000
2008		\$50,000	\$1,200,000
2009		\$50,000	\$1,250,000

Penalties total up to \$2,875,000 for willful failures to file complete and correct FBARs (2005 - \$525,000, 2006 - \$550,000, 2007 - \$575,000, 2008 - \$600,000, 2009 - \$625,000)



Voluntary Disclosure

- OVDP 2009
 - 20% in lieu of penalty highest account balance
 - Expired October 15, 2009
 - May petition for reduced penalties offered under 2011 program
- OVDI 2011
 - 25% in lieu of penalty
 - Highest account balance from 2003 - 2010
 - Assets acquired with unreported income
 - Assets producing unreported income
 - Reduced penalties
 - 12.5% for accounts with less than \$75k
 - 5% for limited circumstances (unopened by taxpayer; minimal withdrawal, taxes paid)
 - Expires August 31, 2011



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Voluntary Disclosure (Cont'd)

EXAMPLE: Assume taxpayer has the following amounts in a foreign account over a period of years.

Year	Amount on Deposit	Interest Income	Account Balance
2005	\$1,000,000	\$50,000	\$1,050,000
2006		\$50,000	\$1,100,000
2007		\$50,000	\$1,150,000
2008		\$50,000	\$1,200,000
2009		\$50,000	\$1,250,000

Penalties 2009- \$250,000

Penalties 2011- \$312,500



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Rowbotham and Company



Peter Trieu is a Tax Director at Rowbotham & Company. His practice focuses on advising clients regarding domestic and international tax planning and compliance. He also assists clients with their estate plans.

His clients include private and public companies around the globe, U.S. and foreign institutional investors, multinational families and executives and non-U.S. investors doing business in the U.S. Mr. Trieu co-authored "[Doing Business in India](#)" published in the May/June 2009 issue of CalCPA magazine.

Additional Firm Resources

Tax Planning and Consulting - Domestic & International: Brian Rowbotham br@rowbotham.com

Asia Practice, Corporate Consulting : Harriet Leung hleung@rowbotham.com

Audit & SEC Practice: Mark Kelly mkelly@rowbotham.com

Corporate Tax: Marcia De Forest mdeforest@rowbotham.com

Tax Compliance - Domestic & International: Cindy Hsieh chsieh@rowbotham.com

Website: www.rowbotham.com

Rowbotham & Company is an accounting and consulting firm that provides domestic and international accounting, tax and consulting services to individuals and businesses including closely held corporations, investment partnerships and funds, venture backed technology enterprises and large multinational companies, both public and private. Rowbotham & Company has offices in San Francisco and Silicon Valley and is a member of IGAF-Polaris, a worldwide network of accounting and consulting firms. The firm is a member of the American Institute of Certified Public Accountants and is registered with the Public Company Accounting Oversight Board.



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TD F 90-22.1(Rev. March 2011)
Department of the Treasury**REPORT OF FOREIGN BANK
AND FINANCIAL ACCOUNTS****Do NOT file with your Federal Tax Return**

OMB No. 1545-2038

1 This Report is for Calendar
Year Ended 12/31Do not use previous editions of
this formAmended **Part I Filer Information**

2 Type of Filer a <input type="checkbox"/> Individual b <input type="checkbox"/> Partnership c <input type="checkbox"/> Corporation d <input type="checkbox"/> Consolidated e <input type="checkbox"/> Fiduciary or Other—Enter type _____			
3 U.S. Taxpayer Identification Number If filer has no U.S. Identification Number complete Item 4.	4 Foreign identification (Complete only if item 3 is not applicable.) a Type: <input type="checkbox"/> Passport <input type="checkbox"/> Other _____ b Number _____ c Country of Issue _____		5 Individual's Date of Birth MM/DD/YYYY
6 Last Name or Organization Name	7 First Name		8 Middle Initial
9 Address (Number, Street, and Apt. or Suite No.)			
10 City	11 State	12 Zip/Postal Code	13 Country
14 Does the filer have a financial interest in 25 or more financial accounts? <input type="checkbox"/> Yes If "Yes" enter total number of accounts _____ (If "Yes" is checked, do not complete Part II or Part III, but retain records of this information) <input type="checkbox"/> No			

Part II Information on Financial Account(s) Owned Separately

15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held			
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held		
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country

Signature

44 Filer Signature	45 Filer Title, if not reporting a personal account	46 Date (MM/DD/YYYY)
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File this form with: U.S. Department of the Treasury, P.O. Box 32621, Detroit, MI 48232-0621

This form should be used to report a financial interest in, signature authority, or other authority over one or more financial accounts in foreign countries, as required by the Department of the Treasury Regulations 31 CFR 1010.350 (formerly 31 CFR 103.24). No report is required if the aggregate value of the accounts did not exceed \$10,000. **See Instructions For Definitions.**

PRIVACY ACT AND PAPERWORK REDUCTION ACT NOTICE

Pursuant to the requirements of Public Law 93-579 (Privacy Act of 1974), notice is hereby given that the authority to collect information on TD F 90-22.1 in accordance with 5 USC 552a (e) is Public Law 91-508; 31 USC 5314; 5 USC 301; 31 CFR 1010.350 (formerly 31 CFR 103.24).

The principal purpose for collecting the information is to assure maintenance of reports where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The information collected may be provided to those officers and employees of any constituent unit of the Department of the Treasury who have a need for the records in the performance of their duties. The records may be referred to any other department or agency of the United States upon the request of the head of such department or agency for use in a criminal, tax, or regulatory investigation or proceeding. The information collected may also be provided to appropriate state, local, and foreign law enforcement and regulatory personnel in the performance of their official duties. Disclosure of this information is mandatory. Civil and criminal penalties, including in certain circumstances a fine of not more than \$500,000 and imprisonment of not more than five years, are provided for failure to file a report, supply information, and for filing a false or fraudulent report. Disclosure of the Social Security number is mandatory. The authority to collect is 31 CFR 1010.350 (formerly 31 CFR 103.24). The Social Security number will be used as a means to identify the individual who files the report.

The estimated average burden associated with this collection of information is 20 minutes per respondent or record keeper, depending on individual circumstances. Comments regarding the accuracy of this burden estimate, and suggestions for reducing the burden should be directed to the Internal Revenue Service, Bank Secrecy Act Policy, 5000 Ellin Road C-3-242, Lanham MD 20706.

Part II Continued—Information on Financial Account(s) Owned Separately

Form TD F 90-22.1

Page Number

___ of ___

Complete a Separate Block for Each Account Owned Separately

This side can be copied as many times as necessary in order to provide information on all accounts.

1 Filing for calendar year ____	3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:	6 Last Name or Organization Name		
15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held				
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held				
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held				
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held				
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held				
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held				
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held				
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	

Part III Information on Financial Account(s) Owned Jointly**Form TD F 90-22.1**

Page Number

____ of ____

Complete a Separate Block for Each Account Owned Jointly

This side can be copied as many times as necessary in order to provide information on all accounts.

1	Filing for calendar year ____ _	3-4	Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:	6	Last Name or Organization Name	
15	Maximum value of account during calendar year reported			16	Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below	
17	Name of Financial Institution in which account is held					
18	Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held				
20	City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24	Number of joint owners for this account	25 Taxpayer Identification Number of principal joint owner, if known. See instructions.				
26	Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29	Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30	City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		
15	Maximum value of account during calendar year reported			16	Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below	
17	Name of Financial Institution in which account is held					
18	Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held				
20	City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24	Number of joint owners for this account	25 Taxpayer Identification Number of principal joint owner, if known. See instructions.				
26	Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29	Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30	City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		
15	Maximum value of account during calendar year reported			16	Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below	
17	Name of Financial Institution in which account is held					
18	Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held				
20	City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24	Number of joint owners for this account	25 Taxpayer Identification Number of principal joint owner, if known. See instructions.				
26	Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29	Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30	City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		
15	Maximum value of account during calendar year reported			16	Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below	
17	Name of Financial Institution in which account is held					
18	Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held				
20	City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24	Number of joint owners for this account	25 Taxpayer Identification Number of principal joint owner, if known. See instructions.				
26	Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29	Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30	City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		

Part IV Information on Financial Account(s) Where Filer has Signature Authority but No Financial Interest in the Account(s)

Form TD F 90-22.1
Page Number

____ of ____

Complete a Separate Block for Each Account

This side can be copied as many times as necessary in order to provide information on all accounts.

1 Filing for calendar year ____	3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:	6 Last Name or Organization Name
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15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below
--	---

17 Name of Financial Institution in which account is held
--

18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held
---	--

20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country
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34 Last Name or Organization Name of Account Owner	35 Taxpayer Identification Number of Account Owner
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36 First Name	37 Middle initial	38 Address (Number, Street, and Apt. or Suite No.)
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39 City	40 State	41 Zip/Postal Code	42 Country
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43 Filer's Title with this Owner

15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below
--	---

17 Name of Financial Institution in which account is held
--

18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held
---	--

20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country
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34 Last Name or Organization Name of Account Owner	35 Taxpayer Identification Number of Account Owner
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36 First Name	37 Middle initial	38 Address (Number, Street, and Apt. or Suite No.)
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39 City	40 State	41 Zip/Postal Code	42 Country
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43 Filer's Title with this Owner

15 Maximum value of account during calendar year reported	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below
--	---

17 Name of Financial Institution in which account is held
--

18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held
---	--

20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country
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34 Last Name or Organization Name of Account Owner	35 Taxpayer Identification Number of Account Owner
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36 First Name	37 Middle initial	38 Address (Number, Street, and Apt. or Suite No.)
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39 City	40 State	41 Zip/Postal Code	42 Country
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43 Filer's Title with this Owner

Part V Information on Financial Account(s) Where the Filer is Filing a Consolidated Report

Form TD F 90-22.1
Page Number

___ of ___

Complete a Separate Block for Each Account

This side can be copied as many times as necessary in order to provide information on all accounts.

1 Filing for calendar year _ _ _ _	3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:	6 Last Name or Organization Name		
15 Maximum value of account during calendar year reported		16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held				
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held		
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
34 Corporate Name of Account Owner			35 Taxpayer Identification Number of Account Owner	
38 Address (Number, Street, and Apt. or Suite No.)				
39 City	40 State	41 Zip/Postal Code	42 Country	
15 Maximum value of account during calendar year reported		16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held				
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held		
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
34 Corporate Name of Account Owner			35 Taxpayer Identification Number of Account Owner	
38 Address (Number, Street, and Apt. or Suite No.)				
39 City	40 State	41 Zip/Postal Code	42 Country	
15 Maximum value of account during calendar year reported		16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held				
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held		
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country	
34 Corporate Name of Account Owner			35 Taxpayer Identification Number of Account Owner	
38 Address (Number, Street, and Apt. or Suite No.)				
39 City	40 State	41 Zip/Postal Code	42 Country	

General Instructions

Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (the "FBAR"), is used to report a financial interest in or signature authority over a foreign financial account. The FBAR must be **received** by the Department of the Treasury on or before **June 30th** of the year immediately following the calendar year being reported. The June 30th filing date may not be extended.

Who Must File an FBAR. A United States person that has a financial interest in or signature authority over foreign financial accounts must file an FBAR if the aggregate value of the foreign financial accounts exceeds \$10,000 at any time during the calendar year. See General Definitions, to determine who is a United States person.

General Definitions

Financial Account. A financial account includes, but is not limited to, a securities, brokerage, savings, demand, checking, deposit, time deposit, or other account maintained with a financial institution (or other person performing the services of a financial institution). A financial account also includes a commodity futures or options account, an insurance policy with a cash value (such as a whole life insurance policy), an annuity policy with a cash value, and shares in a mutual fund or similar pooled fund (i.e., a fund that is available to the general public with a regular net asset value determination and regular redemptions).

Foreign Financial Account. A foreign financial account is a financial account located outside of the United States. For example, an account maintained with a branch of a United States bank that is physically located outside of the United States is a foreign financial account. An account maintained with a branch of a foreign bank that is physically located in the United States is not a foreign financial account.

Financial Interest. A United States person has a financial interest in a foreign financial account for which:

- (1) the United States person is the owner of record or holder of legal title, regardless of whether the account is maintained for the benefit of the United States person or for the benefit of another person; or
- (2) the owner of record or holder of legal title is one of the following:
 - (a) An agent, nominee, attorney, or a person acting in some other capacity on behalf of the United States person with respect to the account;
 - (b) A corporation in which the United States person owns directly or indirectly: (i) more than 50 percent of the total value of shares of stock or (ii) more than 50 percent of the voting power of all shares of stock;
 - (c) A partnership in which the United States person owns directly or indirectly: (i) an interest in more than 50 percent of the partnership's profits (e.g., distributive share of partnership income taking into account any special allocation agreement) or (ii) an interest in more than 50 percent of the partnership capital;
 - (d) A trust of which the United States person: (i) is the trust grantor and (ii) has an ownership interest in the trust for United States federal tax purposes. See 26 U.S.C. sections 671-679 to determine if a grantor has an ownership interest in a trust;
 - (e) A trust in which the United States person has a greater than 50 percent present beneficial interest in the assets or income of the trust for the calendar year; or
 - (f) Any other entity in which the United States person owns directly or indirectly more than 50 percent of the voting power, total value of equity interest or assets, or interest in profits.

Person. A person means an individual and legal entities including, but not limited to, a limited liability company, corporation, partnership, trust, and estate.

Signature Authority. Signature authority is the authority of an individual (alone or in conjunction with another individual) to control the disposition of assets held in a foreign financial account by direct communication (whether in writing or otherwise) to the bank or other financial institution that maintains the financial account. See Exceptions, Signature Authority.

United States. For FBAR purposes, the United States includes the States, the District of Columbia, all United States territories and possessions (e.g., American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands), and the Indian lands as defined in the Indian Gaming Regulatory Act. References to the laws of the United States include the laws of the United States federal government and the laws of all places listed in this definition.

United States Person. United States person means United States citizens; United States residents; entities, including but not limited to, corporations, partnerships, or limited liability companies created or organized in the United States or under the laws of the United States; and trusts or estates formed under the laws of the United States.

Note. The federal tax treatment of an entity does not determine whether the entity has an FBAR filing requirement. For example, an entity that is disregarded for purposes of Title 26 of the United States Code must file an FBAR, if otherwise required to do so. Similarly, a trust for which the trust income, deductions, or credits are taken into account by another person for purposes of Title 26 of the United States Code must file an FBAR, if otherwise required to do so.

United States Resident. A United States resident is an alien residing in the United States. To determine if the filer is a resident of the United States apply the residency tests in 26 U.S.C. section 7701(b). When applying the residency tests, use the definition of United States in these instructions.

Exceptions

Certain Accounts Jointly Owned by Spouses. The spouse of an individual who files an FBAR is not required to file a separate FBAR if the following conditions are met: (1) all the financial accounts that the non-filing spouse is required to report are jointly owned with the filing spouse; (2) the filing spouse reports the jointly owned accounts on a timely filed FBAR; and (3) both spouses sign the FBAR in Item 44. See Explanations for Specific Items, Part III, Items 25-33. Otherwise, both spouses are required to file separate FBARs, and each spouse must report the entire value of the jointly owned accounts.

Consolidated FBAR. If a United States person that is an entity is named in a consolidated FBAR filed by a greater than 50 percent owner, such entity is not required to file a separate FBAR. See Explanations for Specific Items, Part V.

Correspondent/Nostro Account. Correspondent or nostro accounts (which are maintained by banks and used solely for bank-to-bank settlements) are not required to be reported.

Governmental Entity. A foreign financial account of any governmental entity of the United States (as defined above) is not required to be reported by any person. For purposes of this form, governmental entity includes a college or university that is an agency of, an instrumentality of, owned by, or operated by a governmental entity. For purposes of this form, governmental entity also includes an employee retirement or welfare benefit plan of a governmental entity.

International Financial Institution. A foreign financial account of any international financial institution (if the United States government is a member) is not required to be reported by any person.

IRA Owners and Beneficiaries. An owner or beneficiary of an IRA is not required to report a foreign financial account held in the IRA.

Participants in and Beneficiaries of Tax-Qualified Retirement Plans. A participant in or beneficiary of a retirement plan described in Internal Revenue Code section 401(a), 403(a), or 403(b) is not required to report a foreign financial account held by or on behalf of the retirement plan.

Signature Authority. Individuals who have signature authority over, but no financial interest in, a foreign financial account are not required to report the account in the following situations:

(1) An officer or employee of a bank that is examined by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the National Credit Union Administration is not required to report signature authority over a foreign financial account owned or maintained by the bank.

(2) An officer or employee of a financial institution that is registered with and examined by the Securities and Exchange Commission or Commodity Futures Trading Commission is not required to report signature authority over a foreign financial account owned or maintained by the financial institution.

(3) An officer or employee of an Authorized Service Provider is not required to report signature authority over a foreign financial account that is owned or maintained by an investment company that is registered with the Securities and Exchange Commission. Authorized Service Provider means an entity that is registered with and examined by the Securities and Exchange Commission and provides services to an investment company registered under the Investment Company Act of 1940.

(4) An officer or employee of an entity that has a class of equity securities listed (or American depository receipts listed) on any United States national securities exchange is not required to report signature authority over a foreign financial account of such entity.

(5) An officer or employee of a United States subsidiary is not required to report signature authority over a foreign financial account of the subsidiary if its United States parent has a class of equity securities listed on any United States national securities exchange and the subsidiary is included in a consolidated FBAR report of the United States parent.

(6) An officer or employee of an entity that has a class of equity securities registered (or American depository receipts in respect of equity securities registered) under section 12(g) of the Securities Exchange Act is not required to report signature authority over a foreign financial account of such entity.

Trust Beneficiaries. A trust beneficiary with a financial interest described in section (2)(e) of the financial interest definition is not required to report the trust's foreign financial accounts on an FBAR if the trust, trustee of the trust, or agent of the trust: (1) is a United States person and (2) files an FBAR disclosing the trust's foreign financial accounts.

United States Military Banking Facility. A financial account maintained with a financial institution located on a United States military installation is not required to be reported, even if that military installation is outside of the United States.

Filing Information

When and Where to File. The FBAR is an annual report and must be received by the Department of the Treasury on or before June 30th of the year following the calendar year being reported. Do Not file with federal income tax return.

File by mailing to:

Department of the Treasury
Post Office Box 32621
Detroit, MI 48232-0621

If an express delivery service is used, file by mailing to:

IRS Enterprise Computing Center
ATTN: CTR Operations Mailroom, 4th Floor
985 Michigan Avenue
Detroit, MI 48226

The FBAR may be hand delivered to any local office of the Internal Revenue Service for forwarding to the Department of the Treasury, Detroit, MI. The FBAR may also be delivered to the Internal Revenue Service's tax attaches located in United States embassies and consulates for forwarding to the Department of the Treasury, Detroit, MI. The FBAR is not considered filed until it is received by the Department of the Treasury in Detroit, MI.

No Extension of Time to File. There is no extension of time available for filing an FBAR. Extensions of time to file federal tax returns do NOT extend the time for filing an FBAR. If a delinquent FBAR is filed, attach a statement explaining the reason for the late filing.

Amending a Previously Filed FBAR. To amend a filed FBAR, check the "Amended" box in the upper right hand corner of the first page of the FBAR, make the needed additions or corrections, attach a statement explaining the additions or corrections, and staple a copy of the original FBAR to the amendment. An amendment should not be made until at least 90 calendar days after the original FBAR is filed. Follow the instructions in "When and Where to File" to file an amendment.

Record Keeping Requirements. Persons required to file an FBAR must retain records that contain the name in which each account is maintained, the number or other designation of the account, the name and address of the foreign financial institution that maintains the account, the type of account, and the maximum account value of each account during the reporting period. The records must be retained for a

period of 5 years from June 30th of the year following the calendar year reported and must be available for inspection as provided by law. Retaining a copy of the filed FBAR can help to satisfy the record keeping requirements.

An officer or employee who files an FBAR to report signature authority over an employer's foreign financial account is not required to personally retain records regarding these accounts.

Questions. For questions regarding the FBAR, contact the Detroit Computing Center Hotline at 1-800-800-2877, option 2.

Explanations for Specific Items

Part I – Filer Information

Item 1. The FBAR is an annual report. Enter the calendar year being reported. If amending a previously filed FBAR, check the "Amended" box.

Item 2. Check the box that describes the filer. Check only one box. Individuals reporting only signature authority, check box "a". If filing a consolidated FBAR, check box "d". To determine if a consolidated FBAR can be filed, see Part V. If the type of filer is not listed in boxes "a" through "c", check box "e", and enter the type of filer. Persons that should check box "e" include, but are not limited to, trusts, estates, limited liability companies, and tax-exempt entities (even if the entity is organized as a corporation). A disregarded entity must check box "e", and enter the type of entity followed by "(D.E.)". For example, a limited liability company that is disregarded for United States federal tax purposes would enter "limited liability company (D.E.)".

Item 3. Provide the filer's United States taxpayer identification number. Generally, this is the filer's United States social security number (SSN), United States individual taxpayer identification number (ITIN), or employer identification number (EIN). Throughout the FBAR, numbers should be entered with no spaces, dashes, or other punctuation. If the filer does NOT have a United States taxpayer identification number, complete Item 4.

Item 4. Complete Item 4 only if the filer does NOT have a United States taxpayer identification number. Item 4 requires the filer to provide information from an official foreign government document to verify the filer's nationality or residence. Enter the document number followed by the country of issuance, check the appropriate type of document, and if "other" is checked, provide the type of document.

Item 5. If the filer is an individual, enter the filer's date of birth, using the month, day, and year convention.

Items 9, 10, 11, 12, and 13. Enter the filer's address. An individual residing in the United States must enter the street address of the individual's United States residence, not a post office box. An individual residing outside the United States must enter the individual's United States mailing address. If the individual does not have a United States mailing address, the individual must enter a foreign residence address. An entity must enter its United States mailing address. If the entity does not have a United States mailing address, the entity must enter its foreign mailing address.

Item 14. If the filer has a financial interest in 25 or more foreign financial accounts, check "Yes" and enter the number of accounts. Do not complete Part II or Part III of the FBAR. If filing a consolidated FBAR, only complete Part V, Items 34-42, for each United States entity included in the consolidated FBAR.

Note. If the filer has signature authority over 25 or more foreign financial accounts, only complete Part IV, Items 34-43, for each person for which the filer has signature authority, and check "No" in Part I, Item 14.

Filers must comply with applicable recording keeping requirements. See Record Keeping Requirements.

Part II – Information on Financial Account(s) Owned Separately

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

Item 15. Determining Maximum Account Value.

Step 1. Determine the maximum value of each account (in the currency of that account) during the calendar year being reported. The maximum value of an account is a reasonable approximation of the greatest value of currency or nonmonetary assets in the account during the calendar year. Periodic account statements may be relied on to determine the maximum value of the account, provided that the statements fairly reflect the maximum account value during the calendar year. For Item 15, if the filer had a financial interest in more than one account, each account must be valued separately.

Step 2. In the case of non-United States currency, convert the maximum account value for each account into United States dollars. Convert foreign currency by using the Treasury's Financial Management Service rate (this rate may be found at www.fms.treas.gov) from the last day of the calendar year. If no Treasury Financial Management Service rate is available, use another verifiable exchange rate and provide the source of that rate. In valuing currency of a country that uses multiple exchange rates, use the rate that would apply if the currency in the account were converted into United States dollars on the last day of the calendar year.

If the aggregate of the maximum account values exceeds \$10,000, an FBAR must be filed. An FBAR is not required to be filed if the person did not have \$10,000 of aggregate value in foreign financial accounts at any time during the calendar year.

For United States persons with a financial interest in or signature authority over fewer than 25 accounts that are unable to determine if the aggregate maximum account values of the accounts exceeded \$10,000 at any time during the calendar year, complete Part II, III, IV, or V, as appropriate, for each of these accounts and enter "value unknown" in Item 15.

Item 16. Indicate the type of account. Check only one box. If "Other" is selected, describe the account.

Item 17. Provide the name of the financial institution with which the account is held.

Item 18. Provide the account number that the financial institution uses to designate the account.

Items 19-23. Provide the complete mailing address of the financial institution where the account is located. If the foreign address does not include a state (e.g., province) or postal code, leave the box(es) blank.

Part III – Information on Financial Account(s) Owned Jointly

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

For Items 15-23, see Part II. Each joint owner must report the entire value of the account as determined under Item 15.

Item 24. Enter the number of joint owners for the account. If the exact number is not known, provide an estimate. Do not count the filer when determining the number of joint owners.

Items 25-33. Use the identifying information of the principal joint owner (excluding the filer) to complete Items 25-33. Leave blank items for which no information is available. If the filer's spouse has an interest in a jointly owned account, the filer's spouse is the principal joint owner. Enter "(spouse)" on line 26 after the last name of the joint spousal owner. See Exceptions, Certain Accounts Jointly Owned by Spouses, to determine if the filer's spouse is required to independently report the jointly owned accounts.

Part IV – Information on Financial Account(s) Where Filer has Signature Authority but No Financial Interest in the Account(s)

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

25 or More Foreign Financial Accounts. Filers with signature authority over 25 or more foreign financial accounts must complete only Items 34-43 for each person on whose behalf the filer has signature authority.

Modified Reporting for United States Persons Residing and Employed Outside of the United States. A United States person who (1) resides outside of the United States, (2) is an officer or employee of an employer who is physically located outside of the United States, and (3) has signature authority over a foreign financial account that is owned or maintained by the individual's employer should only complete Part I and Part IV, Items 34-43 of the FBAR. Part IV, Items 34-43 should only be completed one time with information about the individual's employer.

For Items 15-23, see Part II.

Items 34-42. Provide the name, address, and identifying number of the owner of the foreign financial account for which the individual has signature authority over but no financial interest in the account. If there is more than one owner of the account for which the individual has signature authority, provide the information in Items 34-42 for the principal joint owner (excluding the filer). If account information is completed for more than one account of the same owner, identify the owner only once and write "Same Owner" in Item 34 for the succeeding accounts with the same owner.

Item 43. Enter filer's title for the position that provides signature authority (e.g., treasurer).

Part V – Information on Financial Account(s) Where Corporate Filer Is Filing a Consolidated Report

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

Who Can File a Consolidated FBAR. An entity that is a United States person that owns directly or indirectly a greater than 50 percent interest in another entity that is required to file an FBAR is permitted to file a consolidated FBAR on behalf of itself and such other entity. Check box "d" in Part I, Item 2 and complete Part V. If filing a consolidated FBAR and reporting 25 or more foreign financial accounts, complete only Items 34-42 for each entity included in the consolidated FBAR.

For Items 15-23, see Part II.

Items 34-42. Provide the name, United States taxpayer identification number, and address of the owner of the foreign financial account as shown on the books of the financial institution. If account information is completed for more than one account of the same owner, identify the owner only once and write "Same Owner" in Item 34 for the succeeding accounts of the same owner.

Signatures

Items 44-46. The FBAR must be signed by the filer named in Part I. If the FBAR is being filed on behalf of a partnership, corporation, limited liability company, trust, estate, or other entity, it must be signed by an authorized individual. Enter the authorized individual's title in Item 45.

An individual must leave "Filer's Title" blank, unless the individual is filing an FBAR due to the individual's signature authority. If an individual is filing because the individual has signature authority over a foreign financial account, the individual should enter the title upon which his or her authority is based in Item 45.

A spouse included as a joint owner, who does not file a separate FBAR in accordance with the instructions in Part III, must also sign the FBAR (in Item 44) for the jointly owned accounts. See the instructions for Part III.

Penalties

A person who is required to file an FBAR and fails to properly file may be subject to a civil penalty not to exceed \$10,000. If there is reasonable cause for the failure and the balance in the account is properly reported, no penalty will be imposed. A person who willfully fails to report an account or account identifying information may be subject to a civil monetary penalty equal to the greater of \$100,000 or 50 percent of the balance in the account at the time of the violation. See 31 U.S.C. section 5321(a)(5). Willful violations may also be subject to criminal penalties under 31 U.S.C. section 5322(a), 31 U.S.C. section 5322(b), or 18 U.S.C. section 1001.