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THE TAX LAWYER

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### FBARs Exempt From E-Filing Mandate

The Financial Crimes Enforcement Network (FinCEN) has released a [Federal Register Notice](#) requiring financial institutions to electronically file various reports with FinCEN by July 1, 2012. Over-burdened financial institutions may *like* e-filing, but this is a **mandatory** rule which is why the details are key. Notably excepted from the required e-filing of reports are:



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1. The Report of International Transportation of Currency or Monetary Instruments ([CMIR](#)).
2. The Report of Cash Payments Over \$10,000 Received in a Trade or Business ([Form 8300](#)).
3. FinCEN previously [announced](#) it was extending the deadline for financial institutions' mandatory use of the new Currency Transaction Report ([CTR](#)) and Suspicious Activity Report ([SAR](#)) to March 31, 2013.

**What about e-filing FBARs?** Individuals *can* (but are not **required** to) e-file FBARs now. Click [here](#), then follow the [instructions](#) to complete and file the FBAR on-line. See [E-Filing And Other FBAR Quirks](#).

For ***institutions***, FinCEN is exempting them from required e-filing until July 1, 2013. Still, FinCEN ***encourages*** e-filing. FBARs aren't governed by the usual "mailing is filing" rule applicable to tax returns so receipt is required by the due date. You don't get extra time if you don't e-file.

Can institutions get relief from these rules? Some institutions can get additional exemptions from these rules. FinCEN is allowing institutions to request hardship exemptions from the July 1, 2012 e-filing deadline. Which hardships are serious enough to merit relief? Many seem focused primarily on technology. For example, certain money services businesses may currently lack internet connectivity and expect to file a *de minimis* number of reports with FinCEN per year.

Small credit unions may also not have internet connectivity within their financial institution. As a group, these credit unions file a minimum number of reports to FinCEN each year. Some institutions could need to have a major system conversion to facilitate the transition to electronic batch or computer-to-computer filings.

Finally, FinCEN says it will consider requests for temporary hardship exemptions based upon other extraordinary circumstances. Even so, FinCEN doesn't expect to grant many of these exemptions, nor to allow ***any*** exemption beyond March 31, 2013.

Institutions that want to apply must supply a variety of information and must submit the exemption request to [ExemptionRequest@fincen.gov](mailto:ExemptionRequest@fincen.gov). Using a FinCEN template should facilitate faster processing by FinCEN of the 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, Virginia 22813. Please direct any questions regarding this notice to the Regulatory Helpline at (800) 949-2732.

For more, see:

[Government Extends FBAR Filing Time](#)

[Despite FATCA, FBAR Penalties Still Under Fire](#)

[Can Foreign Account Nondisclosure Be A Conspiracy?](#)

[Got FBARs? But Which One?](#)

[Get Ready For More FBAR Rules](#)

[Primer For First Time FBAR Filers](#)

[New IRS Offshore Amnesty Announced: Third Time's A Charm](#)

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