



August 17, 2012

James H. Freis, Jr.
Director
Financial Crimes Enforcement Network
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Mr. Freis:

The Clearing House Association L.L.C. (“The Clearing House”) and The Financial Services Roundtable (the “Roundtable”) (together, the “Associations”)¹, respectfully request that the Financial Crimes Enforcement Network (“FinCEN”) resolve ongoing uncertainty around reporting obligations under Form TD F 90-22.1, “Report of Foreign Bank and Financial Accounts” (“FBAR”).

In February 2011, FinCEN promulgated regulations that narrowed pre-existing FBAR filing exceptions.² These regulations create FBAR filing obligations for many thousands of employees in the financial services and other industries with respect to foreign financial accounts in which they have no financial interest but over which they are considered to have signature authority as a result of their employment responsibilities. This matter is of great concern to The Clearing House Owner Banks and the Roundtable’s member companies, for which these employment-related accounts are commonplace.

Following industry comments pointing out the significant burdens these FBAR filings would impose, and the limited utility these duplicate filings would provide, in May 2011 FinCEN extended for one year – to June 30, 2012 – the FBAR filing deadline for individuals with signature authority over employment-related accounts.³ The financial services industry welcomed this action, and it was understood that, in the interim, FinCEN would review these matters and consider further guidance that would address the concerns raised.

¹ The Associations collectively represent financial institutions accounting for a substantial majority of banking and financial assets in the United States. Descriptions of the Associations are provided immediately following the signature page of this letter.

² 31 CFR § 1010.350(f)(2)(i)-(v).

³ FinCEN Notice 2011-1.

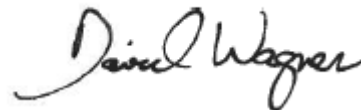
In February 2012, FinCEN further extended the FBAR filing deadline for these individuals for another 12 months, to June 30, 2013.⁴ FinCEN explained that this additional extension was being provided in light of the further questions and concerns that had been raised by the financial services industry regarding the changes made by the FBAR regulations.

While we applaud FinCEN's acknowledgement of industry concerns and the extensions that have been provided, the state of uncertainty about ultimate filing obligations is increasingly untenable. Absent further guidance, affected employees will be required to file FBARs retroactively, for multiple years, and the compliance challenge will be immense. Resolution of these issues is needed in order for the Internal Revenue Service (the "IRS") to publish tax forms – specifically, Form 1040 Schedule B – to clearly communicate FBAR filing obligations. The 2011 Schedule B was published prior to the relief provided by FinCEN Notice 2012-1, creating considerable taxpayer confusion. The IRS soon will have to make decisions on the wording of the 2012 Schedule B regarding individual FBAR obligations, and we are concerned about avoiding the same confusion in next year's tax filing season.

For all these reasons, the Associations respectfully urge FinCEN to resolve these uncertainties once and for all by immediately reinstating a broad FBAR filing exception for employees that have signature authority over employment-related accounts (including accounts of their employer's affiliates) in which they have no financial interest.

We greatly appreciate your consideration of our views. We would be happy to discuss these issues further at your convenience. If we can facilitate arranging for those discussions, or if you have any questions or need further information, please contact me at 212.613.9883 (email: david.wagner@theclearinghouse.org) or Rich Whiting at 202.589.2413 (email: rich@fsround.org).

Respectfully submitted,



David Wagner
Senior Vice President
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The Clearing House



Richard M. Whiting
Executive Director and General
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Financial Services Roundtable

⁴ FinCEN Notice 2012-1.

cc: David S. Cohen
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Department of the Treasury
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The Associations

The Clearing House Association

Established in 1853, The Clearing House is the oldest banking association and payments company in the United States. It is owned by the world's largest commercial banks, which collectively employ over 2 million people and hold more than half of all U.S. deposits. The Clearing House Association L.L.C. is a nonpartisan advocacy organization representing—through regulatory comment letters, amicus briefs and white papers—the interests of its owner banks on a variety of systemically important banking issues. Its affiliate, The Clearing House Payments Company L.L.C., provides payment, clearing, and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated-clearing-house, funds-transfer, and check-image payments made in the U.S. See The Clearing House's web page at www.theclearinghouse.org.

The Financial Services Roundtable

The Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine and account directly for \$92.7 trillion in managed assets, \$1.1 trillion in revenue, and 2.3 million jobs.