



## REQUIREMENTS FOR THE FBAR AND FORM 8938

### A COMPARISON GUIDE for Form 8938 and the FBAR

It's easy to confuse reporting requirements for Form 8938 – the Statement of Specified Foreign Financial Assets – with those of Foreign Bank and Financial Account Report, FinCEN Form 114 (formerly known as TD F 90-22.1), also referred to as the FBAR. This side-by-side comparison will help you understand your obligation to report assets to the IRS and the Treasury Department.

#### Form 8938

#### FinCEN Form 114 (FBAR)

**Who must file?**

Specified individuals, which include US citizens, resident aliens, and certain non-resident aliens who have an interest in specified foreign financial assets and meet the reporting threshold.

US persons, which include US citizens, resident aliens, trusts, estates, and domestic entities that have an interest in foreign financial accounts and meet the reporting threshold.

**Does the United States include US territories?**

No

Yes, resident aliens of US territories and US territory entities are subject to FBAR reporting.

**Reporting threshold (total value of assets)**

For those living abroad, if the total is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the year; or if filing a joint return and the value of your asset is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the year (lower threshold amounts apply to individuals living in the US).

\$10,000 at any time during the calendar year—this amount is aggregate (i.e., you have 2 accounts, one with \$7000 and one with \$4000 as its highest value, you will need to file).

**When do you have an interest in an account or asset?**

If any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or need to be reported, included, or otherwise reflected on your income tax return.

Financial interest: you are the owner of record or holder of legal title, the owner of record or holder of legal title is your agent or representative, you have a sufficient interest in the entity that is the owner of record or holder of legal title  
Signature authority: you have authority to control the disposition of the assets in the account by direct communication with the financial institution maintaining the account.  
See instructions for further details.

**What is reported?**

Maximum value of specified foreign financial assets, which include financial accounts with foreign financial institutions and certain other foreign non-account investment assets.

Maximum value of financial accounts maintained by a financial institution physically located in a foreign country.

**How are maximum account or asset values determined and reported?**

Fair market value in US dollars in accord with the Form 8938 instructions for each account and asset reported; convert to US dollars using the end of the taxable year exchange rate and report in US dollars.

Use periodic account statements to determine the maximum value in the currency of the account; convert to US dollars using the end of the calendar year exchange rate and report in US dollars .



## REQUIREMENTS FOR THE FBAR AND FORM 8938

	Form 8938	FinCEN Form 114 (FBAR)
<b>When is it due?</b>	By income tax due date, including extension, if any.	Received by June 30 (no extensions granted).
<b>Where to file?</b>	File with income tax return pursuant to instructions for filing the return.	ALL individuals file electronically through <a href="#">BSA E-Filing System</a> ; it is not filed with your Federal Tax Return.
<b>Penalties</b>	Up to \$10,000 for failure to disclose and an additional \$10,000 for each 30 days of non-filing after IRS notice of a failure to disclose, for a potential maximum penalty of \$60,000; criminal penalties may also apply. NOTE: If not filed by the due date, the statute is open forever and there is no limit as to when the IRS can perform an audit.	If non-willful, up to \$10,000; if willful, up to the greater of \$100,000 or 50 percent of account balances; criminal penalties may also apply.

### Types of Foreign Assets and Whether They Are Reportable

<b>Financial (deposit and custodial) accounts held at foreign financial institutions</b>	Yes	Yes
<b>Financial account held at a foreign branch of a US financial institution</b>	No	Yes
<b>Financial account held at a US branch of a foreign financial institution</b>	No	No
<b>Foreign financial account for which you have signature authority</b>	No, unless you otherwise have an interest in the account as described above.	Yes, subject to exceptions.
<b>Foreign stock or securities held in a financial account at a foreign financial institution</b>	The account itself is subject to reporting, but the contents of the account do not have to be separately reported.	The account itself is subject to reporting, but the contents of the account do not have to be separately reported.
<b>Foreign stock or securities not held in a financial account</b>	Yes	No
<b>Foreign partnership interests</b>	No	No
<b>Indirect interests in foreign financial assets through an entity</b>	No	Yes, if sufficient ownership or beneficial interest (i.e., a greater than 50 percent interest) in the entity; see instructions for further detail.
<b>Foreign mutual funds</b>	Yes	No



## REQUIREMENTS FOR THE FBAR AND FORM 8938

### Form 8938

### FinCEN Form 114 (FBAR)

**Domestic mutual fund investing in foreign stocks and securities**

Yes

No

**Foreign accounts and foreign non-account investment assets held by foreign or domestic grantor trust for which you are the grantor**

Yes, as to both foreign accounts and foreign non-account investment assets.

Yes, as to foreign accounts.

**Foreign-issued life insurance or annuity contract with a cash-value**

Yes

Yes

**Foreign hedge funds and foreign private equity funds**

Yes

No

**Foreign real estate held directly**

No

No

**Foreign real estate held through a Foreign entity**

No, but the foreign entity itself is a specified foreign financial asset and its maximum value includes the value of the real estate.

No

**Foreign currency held directly**

No

No

**Precious metals held directly**

No

No

**Personal property held directly, such as art, antiques, jewelry, cars and other collectibles**

No

No

**Social Security- type program benefits provided by a foreign government**

No

No

**STILL HAVE QUESTIONS?**  
**Let us help you!**

**Note:**  
The information provided in this document was made available by the IRS and is accurate as of April 2015.