

**106 TAB**

**Form TD F 90-22.1**









# 107 TAB

## Statute Extensions

Example of FBAR Statue Consent

CONSENT TO EXTEND THE TIME TO  
ASSESS CIVIL PENALTIES PROVIDED BY  
31 U.S.C. § 5321 FOR FBAR VIOLATIONS

WHEREAS, the parties to this agreement desire to extend the time during which the penalties provided by 31 U.S.C. 5321 may be assessed and collected,

WHEREAS, the parties to this agreement are aware that they have the right to refuse to sign this consent,

\_\_\_\_\_  
(name and taxpayer identification number)

United States person, of \_\_\_\_\_  
(address)

and the Commissioner of the Internal Revenue Service, hereby agree and consent to the following:

(1) For violations with respect to the requirement, established under 31 U.S.C. 5314, for a United States person to report having a financial interest in or signature authority, or other authority, over a financial account during the calendar year(s) \_\_\_\_\_ that was maintained with a financial institution located in a foreign country, the amount of any penalty provided by 31 U.S.C. 5321 may be assessed at any time on or before

\_\_\_\_\_.

(2) This consent does not reduce, waive, or extend any period of limitation under 26 U.S.C. 6501 for assessing or collecting tax. This consent also does not supersede or amend any other agreement between the United States person and the Internal Revenue Service.

Date \_\_\_\_\_ Signature of the United States Person

\_\_\_\_\_

Date \_\_\_\_\_ Signature of Authorized Representative

\_\_\_\_\_

Date \_\_\_\_\_ Signature of the Commissioner's Delegate

\_\_\_\_\_

\_\_\_\_\_  
Title





**Delegation Order 25-13 (Formerly DO 4-35, Rev. 1)**

**Effective: April 11, 2012**

- (1) **Enforcement of Report of Foreign Bank and Financial Accounts (FBAR) Requirements**
- (2) **Authority:** Except as otherwise set forth in this order, to take any action the Commissioner is authorized to take under the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements with respect to the enforcement of 31 USC § 5314, 31 CFR § 1010.350, 31 CFR § 1010.306, and 31 CFR § 1010.420, including, with respect to these provisions, the authority to assess and collect civil penalties under 31 USC § 5321 and 31 CFR § 1010.820 and to take any other action reasonably necessary for the enforcement of these and related provisions.
- (3) **Delegated to:** Operations Officer, Fraud/Bank Secrecy Act (BSA), BSA Policy and Operations, Currency Transaction Reporting (CTR) Operations; Chief, BSA Policy and Operations; and Program Manager, BSA Policy.
- (4) **Redelegation:** These authorities may not be redelegated.
- (5) **Authority:** To investigate possible civil violations of the FBAR requirements.
- (6) **Delegated to:** Revenue Agents and Estate Tax Attorneys (Small Business/Self-Employed), (Large Business & International), and (Tax Exempt and Government Entities); Tax Compliance Officers (Small Business/Self-Employed), (Large Business & International), and (Tax Exempt and Government Entities); Tax Auditors (Small Business/Self-Employed), (Large Business & International), and (Tax Exempt and Government Entities); Revenue Officers (Small Business/Self-Employed); Federal State and Local Governments Specialists and Indian Tribal Governments Specialists (Tax Exempt and Government Entities).
- (7) **Redelegation:** These authorities may not be redelegated.
- (8) **Authority:** To issue, serve, and recommend enforcement of summonses pursuant to the summons power of 31 CFR Chapter X, Subpart I.
- (9) **Delegated to:** Director, Fraud/BSA; Area Directors; Directors and Chief, BSA Policy and Operations (Small Business/Self-Employed); Directors, Field Operations (Large Business & International); Directors (Tax Exempt and Government Entities); Field Operations Managers and Compliance and Program Managers (Tax Exempt and Government Entities); Territory Managers (Small Business/Self-Employed), (Large Business & International); Area Managers (Tax Exempt and Government Entities).
- (10) **Redelegation:** These authorities may not be redelegated.

- (11) **Authority:** To serve summonses issued pursuant to the summons power of 31 CFR Chapter X, Subpart I, whether issued personally or by another official.
- (12) **Delegated to:** Revenue Agents and Estate Tax Attorneys (Small Business/Self-Employed), (Large Business & International), and (Tax Exempt and Government Entities); Tax Compliance Officers (Small Business/Self-Employed), (Large Business & International), and (Tax Exempt and Government Entities); Tax Auditors (Small Business/Self-Employed), (Large Business & International), and (Tax Exempt and Government Entities); Revenue Officers (Small Business/Self-Employed); Federal State and Local Governments Specialists and Indian Tribal Governments Specialists (Tax Exempt and Government Entities).
- (13) **Redelegation:** These authorities may not be redelegated.
- (14) **Authority:** To prepare and file proofs of claims for FBAR penalties and to take any appropriate action to protect the government's interest in bankruptcy, state and federal receiverships, and other state and federal insolvency actions.
- (15) **Delegated to:** GS-9 Bankruptcy Specialist, Insolvency Unit (Small Business/Self-Employed).
- (16) **Redelegation:** These authorities may not be redelegated.
- (17) **Authority:** To make referrals to the Department of Justice for the institution of proceedings for collection, including bankruptcy proceedings, under 31 USC § 5321 pursuant to the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements.
- (18) **Delegated to:** Chief Counsel attorneys with the approval of a supervisory attorney for cases assigned to them.
- (19) **Redelegation:** This authority may not be redelegated.
- (20) **Authority:** To make referrals to the Department of Justice for the institution of proceedings, except for proceedings in collection and bankruptcy, as to any FBAR matter under the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements.
- (21) **Delegated to:** Chief Counsel attorneys with the approval of a supervisory attorney for cases assigned to them.
- (22) **Redelegation:** This authority may not be redelegated.
- (23) **Authority:** To provide legal advice and assistance under the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements.
- (24) **Delegated to:** Chief Counsel attorneys with the approval of a supervisory attorney for cases assigned to them.

- (25) **Redelegation:** This authority may not be redelegated.
- (26) **Authority:** To issue administrative rulings under 31 CFR Chapter X, Subpart G.
- (27) **Delegated to:** Supervisory attorneys within the Office of the Associate Chief Counsel (Procedure and Administration).
- (28) **Redelegation:** This authority may not be redelegated.
- (29) **Authority:** Upon request of a person, to provide a pre-assessment hearing and to make the Service's final administrative determination concerning the existence or amount of an FBAR penalty owed or alleged to be owed by a person, and to provide the hearing required by 31 CFR Parts 5 and 900, receive and review evidence, and review the Service's determination.
- (30) **Delegated to:** Appeals Team Managers.
- (31) **Redelegation:** This authority may not be redelegated.
- (32) **Authority:** To enter into and approve a written agreement with any person relating to the person's civil liability for an FBAR penalty, other than an agreement to extend the period of limitations on assessment or collection of civil FBAR penalties.
- (33) **Delegated to:** Officials authorized to enter into and approve closing agreements.
- (34) **Redelegation:** This authority may not be redelegated.
- (35) **Authority:** To sign agreements extending the period of limitations on assessment or collection of civil FBAR penalties.
- (36) **Delegated to:**
- a. SB/SE Compliance Field personnel - Collection, Examination and Specialty Programs Field Group Managers; Technical Services and Planning and Special Programs (PSP) Group Managers; GS-11 Revenue Agents or GS-11 Tax Compliance Officers in Technical Services and PSP functions.
  - b. SB/SE Campus Compliance personnel - Campus Compliance Services Department Managers or above.
  - c. Other SB/SE Personnel – Enterprise Computing Center/Detroit Computing Center CTR Operations Manager and BSA Workload, Identification, Selection, Delivery, and Monitoring (WISDM) Group Managers.
  - d. W&I Field Compliance Services Sites (Campuses) – Field Compliance Services Department Managers.

*Authority To Extend Statutes for FBAR Civil Violations to GM*

- e. Representatives on foreign assignments or foreign travel status – LB&I International Area Revenue Agents, Tax Auditors, and Tax Compliance Officers; Criminal Investigation Special Agents on foreign assignments.
  - f. LB&I - Team Managers.
  - g. TE/GE -EP and EO: Field Group Managers; GS-11 Reviewers.
  - h. Appeals - Appeals Team Managers, Appeals Team Case Leaders, Appeals Officers, and Settlement Officers.
  - i. Criminal Investigation - Special Agents in Charge.
  - j. Chief Counsel – Supervisory attorneys within the Office of the Associate Chief Counsel (Procedure and Administration), but only for calendar years that are the subject of a pending administrative ruling request under 31 CFR Chapter X, Subpart G.
- (37) **Redelegation:** This authority may not be redelegated.
- (38) **Source of Authority:** Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements between Financial Crimes Enforcement Network and Internal Revenue Service; Treasury Order 180-01; Treasury Directives 15-41 and 34-02; 31 USC § 5314, 31 USC § 5321; 31 CFR § 1010.350, 31 CFR § 1010.306, 31 CFR § 1010.420 and 31 CFR § 1010.820 and Chapter X, Subparts G and I; 31 CFR Parts 5 and 900 through 904.
- (39) This order supersedes Delegation Order 4-35 (Rev. 1). To the extent that authority previously exercised consistent with this order may require ratification; it is hereby affirmed and ratified.
- (40) **Signed:** Steven T. Miller, Deputy Commissioner for Services and Enforcement

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CCH 2010 Standard Federal Tax Reporter

Procedure and administration -- Secs. 6001-9722

Returns -- Secs. 6001-6167

General return requirements -- Sec. 6011

Current Developments

MISCELLANEOUS DOCUMENT

*2010 Standard Federal Tax Reporter (CCH) P 46,248*

P 46,248 Reporting requirements: Foreign bank account reports: United States person. --

IRC CCH Explanations

IRS Fact Sheet-2010-11, January 4, 2010.

Code Sec. 6011

**The IRS has issued a reminder that each U.S. person who has a financial interest in, or signature or other authority over, any foreign financial accounts with an aggregate value in excess of \$10,000 at any time during the calendar year must file a Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts, TD F 90-22.1 (commonly referred to "FBAR"). The FBAR must be *received* by the IRS by June 30 of the following calendar year. The information is also reported on the individual's federal income tax return (Form 1040, Schedule B, Part III). Back reference: P 35,141.48.**

### **Reporting Foreign Bank and Financial Accounts**

#### **Report of Foreign Bank and Financial Accounts (FBAR)**

If you own or have authority over a foreign financial account, including a bank account, brokerage account, mutual fund or other type of financial account, you may be required to report the account yearly to the Department of the Treasury. Under the Bank Secrecy Act, each United States person must file a *Form TD F 90-22.1*, Report of Foreign Bank and Financial Accounts (FBAR), if

- . The person has a financial interest in, or signature authority (or other authority that is comparable to signature authority) over one or more accounts in a foreign country, and

- . The aggregate value of all foreign financial accounts exceeds \$10,000 at any time during the calendar year.

A United States person is not prohibited from owning foreign accounts but civil and criminal penalties may apply for failures to properly file FBARs when required. The information reported on an FBAR may be used for governmental purposes, including law enforcement and tax compliance purposes.

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CCH 2010 Standard Federal Tax Reporter

Procedure and administration -- Secs. 6001-9722  
Returns -- Secs. 6001-6167  
General return requirements -- Sec. 6011  
Current Developments  
MISCELLANEOUS DOCUMENT

*2010 Standard Federal Tax Reporter (CCH) P 46,248*

P 46,248 Reporting requirements: Foreign bank account reports: United States person. --

IRC CCH Explanations

IRS Fact Sheet-2010-11, January 4, 2010.

Code Sec. 6011

### **Due June 30**

The annual due date for filing *Form TD F 90-22.1*, Report of Foreign Bank and Financial Accounts (FBAR), is June 30. The FBAR must be received by the IRS on or before June 30. Unlike tax returns, the FBAR is considered filed on the day it is received by the IRS. Postmarks are not considered evidence of timely filing.

### **Assistance**

Help in completing Form TD F 90-22.1 is available at (800) 800-2877, option 2. The form is available online at IRS.gov or by telephone at (800) 829-3676. Questions regarding the FBAR can be sent to *FBARquestions@irs.gov*.

**UPDATE-DATE:** March 28, 2011

An **FBAR** is not **filed** until it is received by the Treasury Department in Detroit, MI. Thus, the **timely-mailed-is-timely-filed** rule does not apply to **FBARs**. In addition, an extension of time to file a federal tax return does not extend the due date for an **FBAR**

Can Contact Someone to get a Scanned Image of an FBAR to see when the real FBAR was stamped Received by the IRS at Detroit.

Possible Contacts are Belinda F. White or Michele Clark.



04/05/2013 8:59AM (GMT-05:00)





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04/05/2013 8:59AM (GMT-05:00)

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**POA**





Form 2848 (Rev.3-2012)

**108-2**

1:00PM (GMT-04:00)

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## CBRS Research











**110 TAB**  
**Form 906**

**Closing Agreement On Final Determination  
Covering Specific Matters**

Under section 7121 of the Internal Revenue Code \_\_\_\_\_

\_\_\_\_\_  
(Taxpayer's name, address, and identifying number)

and the Commissioner of Internal Revenue make the following closing agreement:

SAMPLE

## Instructions

This agreement must be signed and filed in triplicate. (All copies must have original signatures.) The original and copies of the agreement must be identical. The name of the taxpayer must be stated accurately. The agreement may relate to one or more years.

If an attorney or agent signs the agreement for the taxpayer, the power of attorney (or a copy) authorizing that person to sign must be attached to the agreement. If the agreement is made for a year when a joint income tax return was filed by a husband and wife, it should be signed by or for both spouses. One spouse may sign as agent for the other if the document (or a copy) specifically authorizing that spouse to sign is attached to the agreement.

If the fiduciary signs the agreement for a decedent or an estate, an attested copy of the letters testamentary or the court order authorizing the fiduciary to sign, and a certificate of recent date that the authority remains in full force and effect must be attached to the agreement. If a trustee signs, a certified copy of the trust instrument or a certified copy of extracts from that instrument must be attached showing:

- (1) the date of the instrument;
- (2) that it is or is not of record in any court;
- (3) the names of the beneficiaries;
- (4) the appointment of the trustee, the authority granted, and other information necessary to show that the authority extends to Federal tax matters; and
- (5) that the trust has not been terminated, and that the trustee appointed is still acting. If a fiduciary is a party, Form 56, Notice Concerning Fiduciary Relationship, is ordinarily required.

If the taxpayer is a corporation, the agreement must be dated and signed with the name of the corporation, the signature and title of an authorized officer or officers, or the signature of an authorized attorney or agent. It is not necessary that a copy of an enabling corporate resolution be attached.

Use additional pages if necessary, and identify them as part of this agreement.

Please see Revenue Procedure 68 16, C.B. 1968 1, page 770, for a detailed description of practices and procedures applicable to most closing agreements.

This agreement is final and conclusive except:

- (1) the matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of material fact;
- (2) it is subject to the Internal Revenue Code sections that expressly provide that effect be given to their provisions (including any stated exception for Code section 7122) notwithstanding any other law or rule of law; and
- (3) if it relates to a tax period ending after the date of this agreement, it is subject to any law, enacted after the agreement date, that applies to that tax period.

By signing, the above parties certify that they have read and agreed to the terms of this document.

Your signature \_\_\_\_\_ Date Signed \_\_\_\_\_

Spouse's signature (if a joint return was filed) \_\_\_\_\_ Date Signed \_\_\_\_\_

Taxpayer's representative \_\_\_\_\_ Date Signed \_\_\_\_\_

Taxpayer (other than individual) \_\_\_\_\_

By \_\_\_\_\_ Date Signed \_\_\_\_\_

Title \_\_\_\_\_

Commissioner of Internal Revenue

By \_\_\_\_\_ Date Signed \_\_\_\_\_

Title \_\_\_\_\_

SAMPLE

I have examined the specific matters involved and recommend the acceptance of the proposed agreement.

\_\_\_\_\_  
(Receiving Officer) \_\_\_\_\_ (Date)

\_\_\_\_\_  
(Title)

I have reviewed the specific matters involved and recommend approval of the proposed agreement.

\_\_\_\_\_  
(Reviewing Officer) \_\_\_\_\_ (Date)

\_\_\_\_\_  
(Title)

SAMPLE







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Links to FBAR IRM

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**Fraud Development  
Lead Sheet**

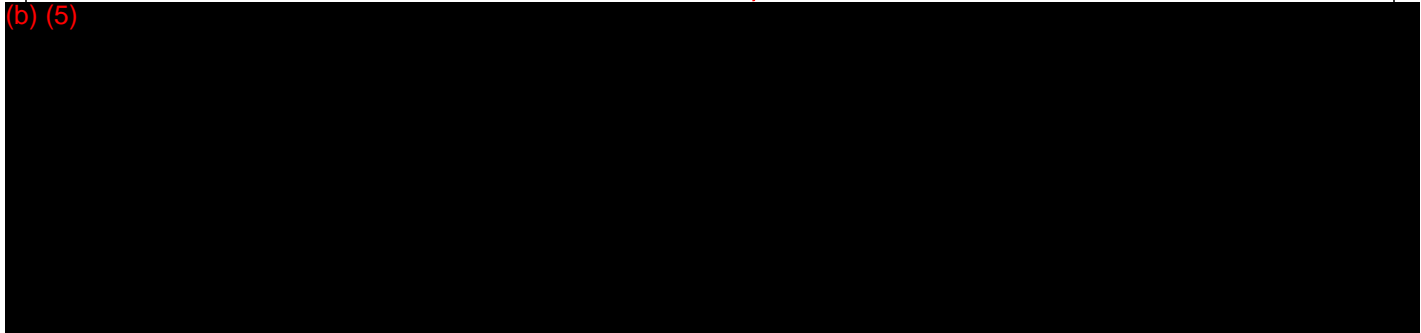
**Taxpayer Name:**  
**TIN:**  
**Tax Form:**  
**Tax Year (s):**

**Examiner:**  
  
**Date:**

**Fraud Development Lead Sheet**

Tax Period	Code Section	Penalty Amount	Reference

**Conclusion:** *(Reflects action on the issue.)*



		No Fraud [Comment required if there are adjustment(s) and fraud had been considered]
		Indications of fraud [Explain]; Date of discussion with manager: <input style="width: 100px;" type="text"/>

The following items are not intended to be all-inclusive nor are they mandatory steps to be followed. Judgment should be used in pursuing the items that apply to each taxpayer. Refer to IRM 25.1, *Fraud Handbook* and the Fraud Website at <http://sbseservicewide.web.irs.gov/Fraud/default.aspx> and contact your local Fraud Technical Advisor (FTA) when indicators of fraud are present.

**Guidelines**

IRM 25.1.1.1(6) The FTA plays a vital role in the development of a potential fraud case. The FTA will be consulted in all cases involving potential fraud after discussing the case with the group manager.

IRM 25.1.1.2(2) defines tax fraud. Tax fraud is often defined as an intentional wrongdoing on the part of a taxpayer, with the specific purpose of evading a tax known or believed to be owing. Tax fraud requires both an underpayment of tax due and fraudulent intent.

IRM 25.1.2.3, *Indicators of Fraud* lists examples of fraud indicators. Fraud cannot be established unless affirmative acts of fraud are present.

IRM 25.1.1, *Overview/Definitions*; IRM 25.1.2, *Recognizing and Developing Fraud*; and IRM 25.1.7, *Failure to File* provide specific guidance on fraud indicators and the development of fraud for filed and/or non-filed returns.

IRM 20.1.5.3, *Examination Penalty Assertion* and IRM 20.1.2.7, *Fraudulent Failure to File — IRC section 6651(f)*, provide specific procedures for assertion of the civil fraud and fraudulent failure to file penalties.

In cases where fraud was considered and the civil fraud penalty is not being recommended, the examiner will explain the reasons why the penalty was not asserted. Document the explanation in the “Conclusion” section above or at Lead Sheet 300, *Civil Penalty Approval Form*.

**Taxpayer Name:**  
**TIN:**  
**Tax Form:**  
**Tax Year (s):**

**Examiner:**  
**Date:**

## Fraud Development Lead Sheet

### Key Items

**Fraud Development (IRM 25.1.2.2 & IRM 25.1.7.4) and Indicators of Fraud (IRM 25.1.2.3 & IRM 25.1.7.2):**

1. Document discussion with group manager in the Conclusion section above.
2. Discuss with FTA and prepare Form 11661 electronically if there is an agreement that potential for fraud exists and forward to group manager. If a disagreement exists on whether a case should or should not be in fraud development status, the ultimate decision rests with the group manager.
3. Upon receipt of approved Form 11661 with Plan of Action, update the case to Status Code 17.
4. Timely actions and periodic meetings with FTA are required.
5. If no fraud potential, Form 11661 will be updated by the FTA and the case returned to status 12.

**Affirmative Acts (firm indicators) of Fraud warranting criminal consideration (IRM 25.1.3):**

1. If affirmative acts of fraud are established, suspend all activity.
2. When affirmative acts (firm indications) of fraud/willfulness exist and criminal criteria are met, refer the case to Criminal Investigation (CI) via Form 2797, *Referral Report of Potential Criminal Fraud Cases*. The FTA is available to assist in determining if firm indications of fraud/willfulness are present, criminal criteria has been met, etc.
3. No actions should be taken until Criminal Investigation accepts or declines referral.
4. If accepted, cases should be updated to Status 18.
5. If not accepted by CI, civil fraud consideration should be pursued.
6. If assigned a case as Cooperating Agent (Form 6544), review and follow guidelines set out in IRM 25.1.4, *Administrative Joint Investigation* and/or IRM 25.1.5, *Grand Jury Investigations*.

**Civil Fraud Developed (IRM 25.1.6)**

1. A civil fraud penalty including the fraudulent failure to file may be developed based on the civil examination and/or result from a criminal investigation (CI) initiated case.
2. Discuss the case with group manager and the FTA. If agreement can not be reached regarding assertion of the civil fraud penalty, the decision will rest with the group manager.
3. Complete a write up including the facts, applicable law, argument, and conclusion (IRM 4.10.8.11.2, *Explanation of Items*).
4. Cases being developed for civil fraud will be updated on AIMS to status code 17 (Fraud Development), via Form 11661, *Fraud Development Recommendation - Examination*.
5. Examiners should be aware of Collateral Estoppel on cases criminally prosecuted. Refer to IRM 25.1.6.4, IRM 25.1.7.8(5) and IRM 20.1.2.7(9). A taxpayer or nonfiler convicted of IRC 7201, *Attempt to Evade or Defeat Tax*, is collaterally estopped from denying liability for the civil fraud or fraudulent failure to file penalty.

**Taxpayer Name:**  
**TIN:**  
**Tax Form:**  
**Tax Year (s):**

**Examiner:**

**Date:**

<b>Fraud Development Lead Sheet</b>	
<b>Facts:</b> (Document the relevant facts.)	
<b>Law:</b> (Tax Law, Regulations, court cases, and other authorities. If Unagreed, add Argument)	
<b>IRC Section:</b>	
<b>Specific Citations:</b>	
<b>Taxpayer Position:</b> (If applicable) Summarize defenses given by the Taxpayer / Filer, Representative, or Preparer for acts of fraud.	
<b>Additional Items:</b>	<b>Workpaper Reference</b>
Form 11661 - Fraud Development Recommendation - Examination	
Form 2797 - Referral Report of Potential Criminal Fraud Cases	
Form 10498A - Joint Investigations Intent to Commence Civil Action	
Form 10498B - Joint Investigations Intent to Solicit Consent to Extend Statute	Attach to back of tax return
Form 6544 - Request for Cooperating Examiner	
Form 13308 - Criminal Investigation Closing Report (Tax and Tax Related Only)	
<b>Attach for Willful FBAR Penalty Assessments the FTA Written Approval</b>	

**400 TAB**

**Penalty FBAR Lead  
Sheet in RGS**







































































