

AFP®



Annual Conference

OCTOBER 27-30, 2013 | LAS VEGAS

ORIGINAL → ESSENTIAL → UNBIASED → **INFORMATION**

FBAR – How to Manage and Where to Draw the Line

David Watt

URS Corporation

Sean Akins

Latham & Watkins LLP

Session Overview

- The US Treasury's Foreign Bank Account Reporting requirements present a record keeping and administrative challenge to US companies and individuals. This session will review the specific requirements each party has with regards to this program and how URS Corporation has managed its obligations. The company has over 700 account signors on 650 bank accounts for both corporate and joint venture entities with a total of nearly 5,000 signature authorities.

Agenda

- Introductions
- What is FBAR
 - Background
 - Filing requirements
- How has URS handled FBAR
 - Prior to 2011
 - 2012 – Future
- Questions

Bio's

- Sean Akins

- Sean Akins is an associate in the Washington, D.C. office of Latham & Watkins specializing in tax controversy and tax litigation matters. Mr. Akins' practice involves counseling both corporate and individual clients as to the resolution of tax controversies at all levels of tax administration and in court. He also assists clients in responding to Congressional and administrative tax investigations.
- Mr. Akins is active in the ABA Section of Taxation, where he is the co-chair of the Important Developments subcommittee of the Court Practice and Procedure Committee and served as Co-Vice Chair of the Insurance Companies Committee from 2010-2011. He is also an Associate Member of the J. Edgar Murdock American Inns of Court (US Tax Court).

- David Watt

- David Watt, Treasury Manager, joined URS Corporation in 2010. He and his team of 3 reports manage the company's cash operations around the world from the company's headquarters in San Francisco, CA. The company operates in nearly 50 countries and has over 100 joint ventures under management. In total, URS has over 650 bank accounts with more than 800 signors.
- Prior to joining URS Corporation in 2010, David worked in Treasury for eBay, Inc. and World Savings. He began his career in Accounting and holds a CPA designation in addition to the CTP.

FBAR Background

- Bank Secrecy Act of 1970
- Requires reporting of foreign financial accounts
- Civil and criminal penalties
- Authority Delegations (FinCEN and IRS)
- Purpose of FBAR
- Revised requirements/new FBAR form effective March 28, 2011

FBAR Filing Requirements

- Four elements:
 - “United States Persons” must file if:
 - They have a financial interest or signature authority over
 - A Foreign Financial Account, and
 - The aggregate value of the account exceeds \$10,000 at any time during the calendar year

U.S. Persons

- U.S. Citizens
 - Residence ignored
- U.S. Residents
 - IRC 7701(b)
 - Green Card/Substantial Presence
 - Election under 7701(b)
 - Tax Treaty/IRC 6013(g) or (h) elections disregarded
- U.S. Entities
 - Organized/created in U.S. or under U.S. law
 - Tax status disregarded

Financial Interest

- Record owner or holding title directly
- Title held for benefit of U.S. Person
- U.S. person is record owner or holds title indirectly if:
 - U.S. person owns >50% of the entity that holds title
 - Applies to tiered entities
 - Branches

Signature Authority

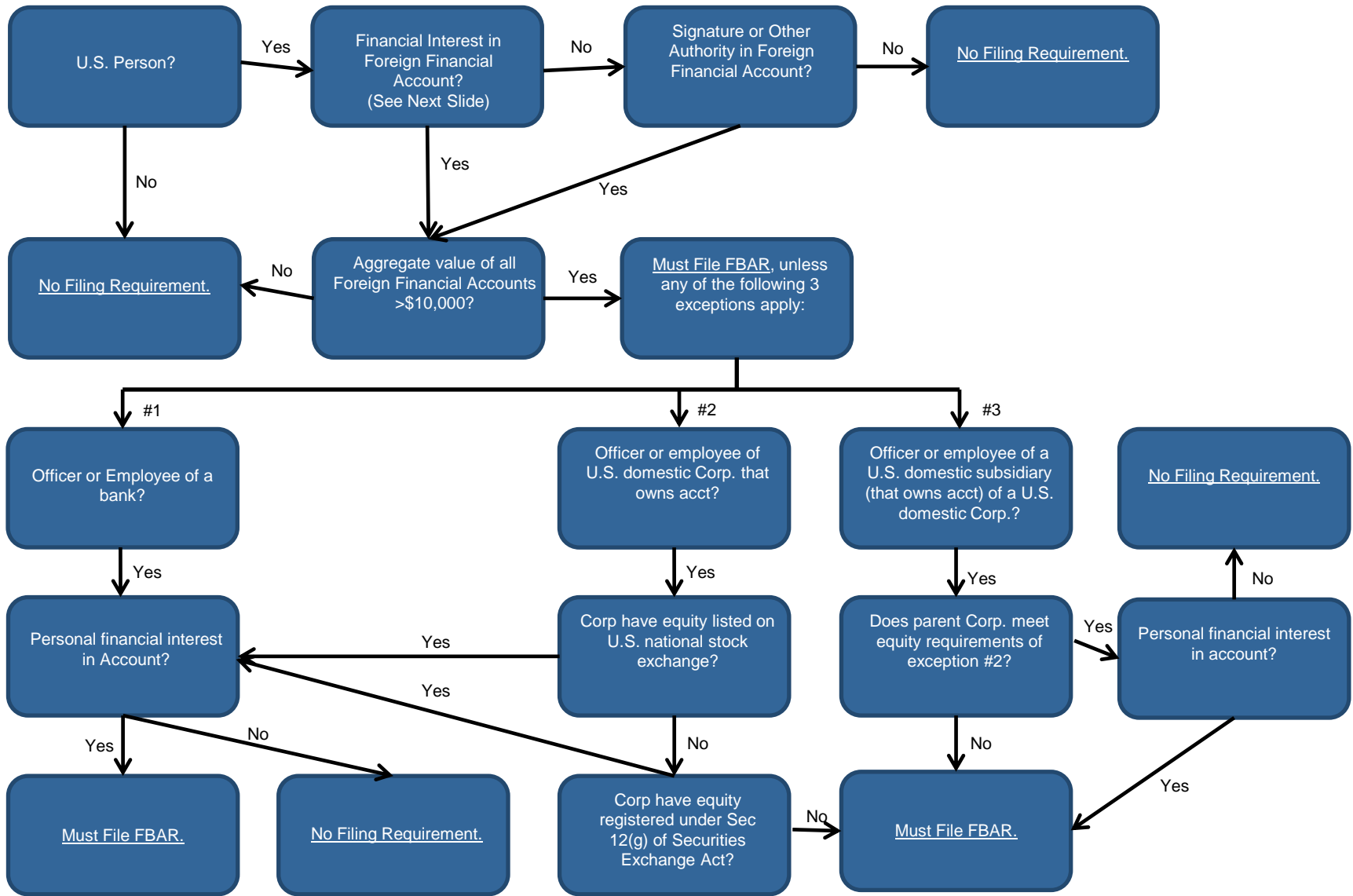
- Individual can control disposition of account assets by direct communication (oral, written or electronic)
- Control in conjunction with another
- Signature Authority does not include:
 - Supervisory approvals
 - Authority attributed to entities
- Signature Authority exceptions
 - Awaiting additional guidance

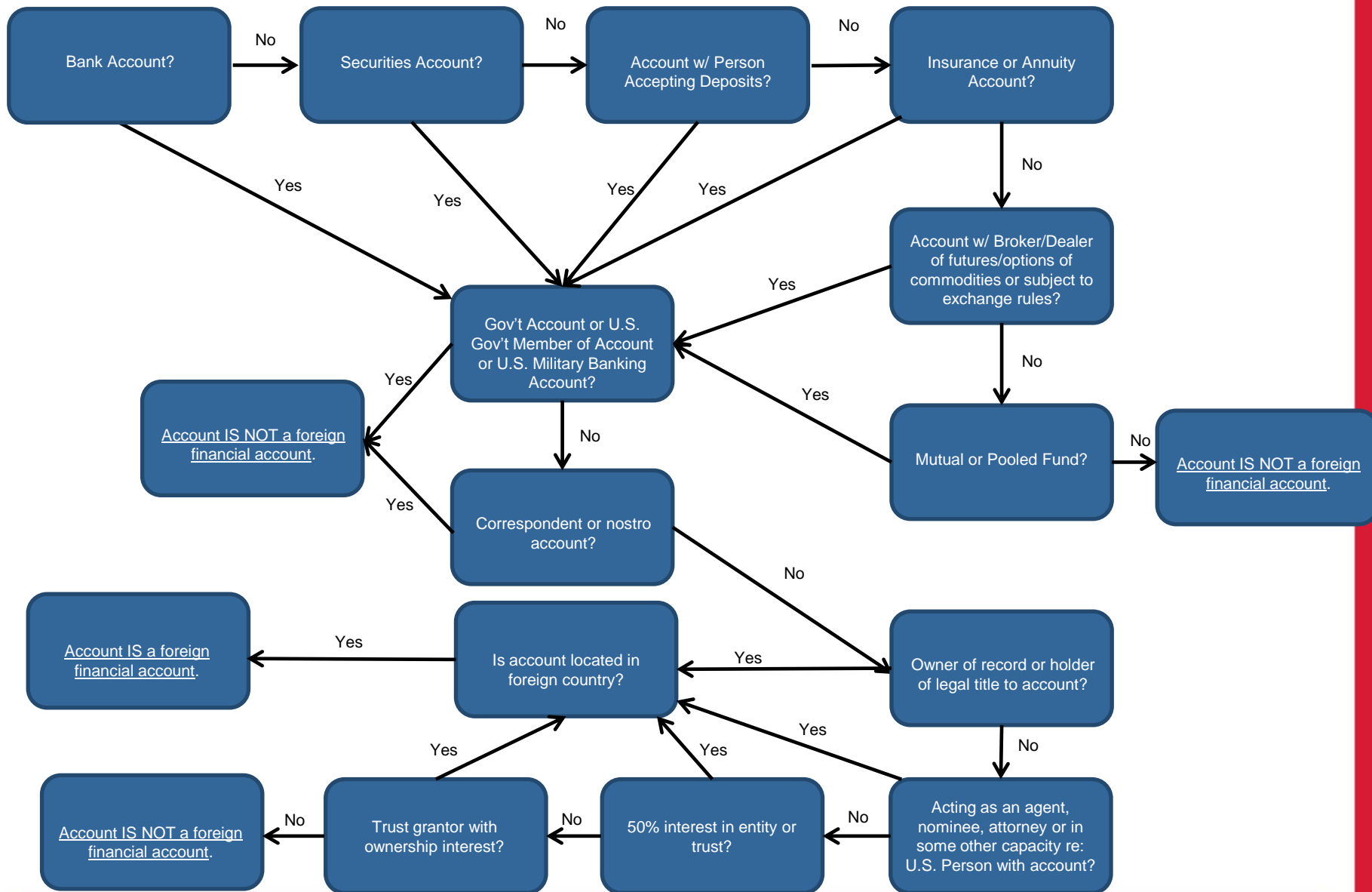
Foreign Financial Account

- Foreign
 - Outside the United States
 - Physical location of account controls
 - Global custodian
- Financial
 - Monetary and non-monetary
 - Bank, brokerage, and investment accounts
 - Does not include real and personal property
- Account
 - Relationship with financial institution or person acting as same
 - Does not include assets held directly

Aggregate Value

- Aggregate value of accounts must exceed \$10,000
- Must aggregate all accounts
 - Financial interest
 - Signature authority
 - Held directly
 - Held indirectly
- Specific method to value accounts





Procedural Filing Rules

- Truncated filing obligations for 25 or more accounts
- Consolidated filing
- Spousal filing
- Electronic Filing - http://bsaefiling.fincen.treas.gov/Enroll_Individual.html
- Timing
 - June 30 deadline for preceding calendar year
 - No mailbox rule
 - No filing extensions
- Amending an FBAR
 - Write "Amended" at the top of a new form
 - Add/correct the information about the account
 - Staple it to a copy of the original form
 - Mail the amended FBAR to the filing address shown on the form -
Department of the Treasury, Post Office Box 32621, Detroit, MI 48232-0621

Recordkeeping Requirements

- Five-year retention rule
- Signature Authority exception
 - No personal retention requirement
 - Company not exempted

Completing an FBAR

- Part I – Filer Information
- Part II – Information on Financial Accounts Owned Separately
- Part III – Information on Financial Accounts Owned Jointly
- Part IV – Signature Authority
- Part V – Consolidated Filing
- Tips
 - Use the right form (E-filing now mandatory) and the right part of the form
 - No Spreadsheets
 - Copy Form Multiple Times
 - 25 or more foreign financial accounts
- Information - [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Report-of-Foreign-Bank-and-Financial-Accounts-\(FBAR\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Report-of-Foreign-Bank-and-Financial-Accounts-(FBAR))
- Questions - FBAR help is available by telephone or e-mail. Call 866-270-0733 (toll-free within the U.S.) or 313-234-6146 (from outside the U.S., not toll-free) from 8 a.m.—4:30 p.m. Eastern time, or e-mail your inquiry to FBARquestions@irs.gov.

How has URS handled FBAR?

- Through the 2011 filing year URS relied on an access database, paper files, and Excel to track the bank accounts, signors, and FBAR filings respectively.
 - After an acquisition in late 2010 the Treasury group was tracking 600-700 bank accounts and nearly 700 signors
 - This method was very time consuming and relied on multiple levels of staff review to ensure accuracy

How has URS handled FBAR?

- In order to reduce the FBAR burden on the department and company employees Treasury decided on a new course of action in 2011
 1. Work to reduce the number of bank accounts we maintain
 2. Work to reduce the number of employees required to file FBAR form
 3. Use treasury workstation to house all account and signor data and build a more automated way of tracking FBAR authorities

How has URS handled FBAR?

- Changes implemented to reduce FBAR authorities:
 1. Signing authorities held for control purposes were concentrated to Treasury staff (removing divisional management)
 2. Processes were changed to ensure all signors on an account were reviewed when a change request was submitted and non-essential signors were removed in conjunction with the requested update.
 3. Regular reviews were instituted to flag signors that were no longer with the company

Year	# of employee filings
2010	89
2011	71
2012	62
2013	53

How has URS handled FBAR?

- Treasury workstation system was implemented in late 2011 and had the FBAR requirements as a key piece of the justification
 - Provides dual approval capability that Access and Excel lack
 - Allows multiple users access to the data in a user friendly/secure manner
 - Can be view only or editable
 - Had some, but not all the data fields required to complete the FBAR forms
 - Did have customizable fields we could use

How has URS handled FBAR?

- Now the flow of information is managed via the workstation and updated daily as changes are completed
- Reports are generated from the workstation and downloaded into Excel files for final analysis
- FBAR forms are available in Adobe and are manually completed and distributed by January 31st to employees
 - Allows employees to file personal tax returns without delay
- 2012 forms were completed on time and only required 3 staff members participate in the project
 - In 2011 the forms were completed in April and required 6 staff members.

Questions?

