



Form 8938 and FinCEN 114 Requirements

	Form 8938	FinCEN Form 114
Who Must File?	<p>Specified individuals & specified domestic entities that have an interest in specified foreign financial assets & meet threshold</p> <p>Includes US citizens, resident aliens, & certain non-resident aliens, and certain US corps, partnerships, & trusts</p>	<p>US persons, which include US citizens, resident aliens, trusts, estates, & domestic entities that have an interest in foreign financial accounts & meet reporting threshold</p>
Does the US include US territories?	No	Yes
Reporting Threshold (Total Value of Assets)	<p>Specified individuals living in US: Single or MFS >\$50,000 on last day of tax year, or >\$75,000 at any time during year MFJ >\$100,000 on last day of tax year, or >\$150,000 at any time during year</p> <p>Specified individuals living outside US: x 4</p> <p>Specified domestic entities: >\$50,000 at any time during tax year</p>	<p>>\$10,000 at any time during calendar year</p>
When do you have an interest in an account or asset?	<p>If any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or would be required to be reported, included, or otherwise reflected on your income tax return</p>	<p>Financial interest:</p> <ul style="list-style-type: none"> • Owner of record or legal title holder • Owner of record or legal title holder is your agent or rep • Sufficient interest in entity that is owner of record or legal title holder <p>Signature authority: Authority to control disposition of assets in account by direct communication with maintaining financial institution</p>
What is reported?	Max value of specified foreign financial assets	Max value of financial accounts maintained by a financial institution physically located in foreign country
How are max account or asset values determined?	<p>FMV in US dollars</p> <p>Convert to US dollars using end of taxable year exchange rate</p>	<p>Determine max value in currency of account</p> <p>Convert to US dollars using end of calendar year exchange rate</p>
When Due?	Form is attached to annual return & due on date of that return, including any applicable extensions	Received by April 15 (6-month automatic extension to Oct 15)
Where to file?	File with income tax return pursuant to instructions for filing the return	File electronically through FinCEN's e-filing System
Penalties (+ criminal)	Up to \$10,000 + add'l \$10,000/30 days of non-filing after IRS notice; max \$60,000.	Up to the >\$100,000 or 50% of account balances.

Types of Foreign Assets and Whether They Are Reportable		
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Financial accounts held at foreign financial institutions	Yes	Yes
Financial account held at foreign branch of US fin'l inst.	No	Yes
Financial account held at US branch of foreign fin'l inst.	No	No
Foreign financial account for which you have signature authority	No, unless you otherwise have an interest in account as described above	Yes, subject to expectations
Foreign stock or securities held in financial account at foreign financial institution	Account is subject to reporting, but contents of account do not have to be separately reported	Account is subject to reporting, but contents of account do not have to be separately reported
Foreign stock or securities not held in a financial account	Yes	No
Foreign partnership interests	Yes	No
Indirect interests in foreign financial assets through an entity	No	Yes, if sufficient ownership or beneficial interest (i.e., a >50% interest) in the entity.
Foreign mutual funds	Yes	Yes
US mutual fund investing in foreign stocks and securities	No	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 funds	Yes	Yes
Foreign hedge funds and foreign private equity	Yes	No
Foreign real estate held directly	No	No
Foreign real estate held through a foreign entity	No, but the foreign entity 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
SS type program benefits provided by foreign government	No	No
*Note – This table is current through the publication date. Please check the instructions for each form for information regarding any future developments.		