

Limited Extension of June 30, 2009 FBAR Filing Deadline for Certain Taxpayers

June 26, 2009

On June 25, 2009, Dewey & LeBoeuf LLP issued a client alert¹ addressing filing requirements potentially applicable to investors in foreign hedge funds and other alternative investment funds. As indicated in that client alert, certain representatives of the Internal Revenue Service (the "Service") have indicated that foreign hedge (and other alternative investment) funds should be subject to filing requirements under Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts ("FBAR").

Persons required to file Form TD F 90-22.1 for any calendar year generally must file the form on or before June 30th of the succeeding calendar year. In order to be timely filed, the form must be received no later than June 30th. It is not sufficient for the form to be mailed and postmarked no later than June 30th.

In response to the uncertain scope of the FBAR reporting obligation and reported confusion in the private equity fund industry, the Service, as indicated on its Web site on June 24, 2009, effectively extended the filing deadline to September 23, 2009, for certain taxpayers. Taxpayers who reported and paid tax on all of their 2008 taxable income but only recently learned of their FBAR filing obligations and have insufficient time to gather necessary information to complete the form can file the delinquent Form TD F 90-22.1 by September 23, 2009. The Service has indicated that it will not impose a penalty for the failure to file the FBAR.

Any taxpayer wishing to take advantage of the extension should file the delinquent Form TD F 90-22.1 pursuant to the form's instructions and should attach a statement explaining why the report is filed late. In addition, the taxpayer should send a copy of the delinquent form and a copy of the taxpayer's 2008 tax return (unless it is due after September 13, 2009) to the Philadelphia Offshore Identification Unit at the following address:

Internal Revenue Service
11501 Roosevelt Blvd.
South Bldg., Room 2002
Philadelphia, PA 19154
Attn: Charlie Judge, Offshore Unit, DP S-611

¹ "Filing Requirements Potentially Applicable to Investors in Foreign Hedge and Other Alternative Investment Funds," available [here](#).

This memorandum is intended only as a general discussion of these issues. It is not considered to be legal advice. We would be pleased to provide additional details or advice about specific situations. For additional information on this important topic, please feel free to call upon your Dewey & LeBoeuf relationship partner.

Pursuant to US Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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If a taxpayer also failed to file required FBAR reports in prior years but reported and paid tax on all taxable income in those years, the Service has advised each such taxpayer to follow the same procedure as applicable to a delinquent FBAR report for calendar year 2008 (discussed above). Consistent with its approach to calendar year 2008, the Service has indicated that it will not impose a penalty for failure to file the FBARs.

The discussion above summarizes information available on the Service's Web site. Please consult your tax return preparer for any additional information.

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