



A Division of O'Connor Davies Munns & Dobbins LLP

Monthly *Foot* Notes

March 19, 2010

Foreign Bank and Account Reporting (FBAR) Guidance

The IRS issued Notice 2010-23 ("the Notice") last month, which provides Foreign Bank Account Reporting (FBAR) relief to investors in offshore hedge funds, private equity funds and venture capital funds. Some of the highlights of the Notice are listed below:

Extended Due Date for U.S. Persons with Signature Authority:

U.S. persons with signature authority over, but no financial interest in, a foreign financial account will have until June 30, 2011 to file the FBAR for 2010 and prior calendar years. The FBAR will be subject to the revised FBAR guidance at the time it is filed.

Clarification on Certain Foreign Commingled Funds:

The IRS will not interpret the term "commingled fund" as applying to funds other than mutual funds with respect to the FBAR for calendar year 2009 and prior years. Therefore, the IRS has determined that it will not apply its enforcement authority adversely in the case of private investment funds with a financial interest in or signature authority over, a foreign commingled fund that is not a mutual fund with respect to that account for calendar years 2009 and earlier. Thus, a private investment fund financial interest in a foreign financial account and will not be required to be reported on the FBAR for calendar years 2009 and earlier.

Explains the Impact of FBAR Reporting on Other Federal Tax Forms:

U.S. persons, including private foundations, with no reportable foreign financial accounts due to the relief provided in Notice 2010-23 should check "NO" to any FBAR related questions on any federal tax forms for 2009 and earlier years.

Contact your ODFS service provider for additional guidance and also visit our website at www.odfsconsulting.com.

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Hedge Funds Look to Rebound

The Wall Street Journal reported this week that investors expect to pour more money into hedge funds this year than they will withdraw for the first time since 2007, reflecting cautious confidence about the industry and the financial markets more broadly. Despite investor exits last year, the level of industry assets recovered slightly thanks to positive investment performance. Hedge funds as a group were up 20% last year, after delivering their worst performance on record in 2008. Industry assets stood at \$1.6 trillion at the end of 2009, up from \$1.4 trillion in 2008, though below the 2007 peak of \$1.9 trillion, according to Chicago data tracker Hedge Fund Research Inc.

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