



IRS Grants FBAR Filing Extension for Certain U.S. Persons **By Ethan W. Johnson of Morgan, Lewis & Bockius LLP**

On 7 August 2009 the U.S. Internal Revenue Service granted an extension to 30 June 2010 for specified persons to file Report of Foreign Bank and Financial Accounts (FBAR), for 2008 and prior years. In addition, the IRS has asked for suggested changes in filing requirements that may reduce or eliminate FBAR filing obligations in various circumstances.

Generally, any U.S. person or entity that at any time during a calendar year had a financial interest in, or signature or other authority over, financial accounts located in a foreign country with an aggregate value in excess of US\$10,000 is required to file. The filing deadline for FBARs for each year is normally 30 June of the following year.

The IRS's recent notice provides additional administrative relief for the following U.S. persons:

- Persons with no financial interest in a foreign financial account but with signature or other authority over the foreign financial account.
- Persons with a financial interest in, or signature authority over, a foreign financial account in which the assets are held in a commingled fund.

Potential filers of FBARs include persons who are merely employees of institutions that hold assets in foreign accounts in which such employees have the ability to effect transactions with respect to such accounts but do not have legal or beneficial ownership of such accounts. The IRS has requested comments regarding a possible exemption from FBAR filings for such persons where the owner of the account files the FBAR with respect to the account. If this exemption is adopted, a large number of duplicative filings would be eliminated.

FBAR filings for investments in foreign commingled funds (which may include offshore hedge funds and other investment vehicles) held by U.S. persons are also eligible for the extended deadline.

IRS Circular 230 Disclosure

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