

**Update for Public Plans Regarding Foreign Bank and Financial Accounts
Filing Requirements**

June 29, 2009

Much confusion exists regarding filing of Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR). Generally, any U.S. person or entity that at any time during calendar year 2008 had a financial interest in, or signature or other authority over, any financial account located in a foreign country, where the aggregate value exceeded \$10,000, is required to file. The filing deadline for FBARs is June 30.

If a public pension plan has an investment in a foreign investment partnership or corporation and has the information necessary to file an FBAR and is able to file, the plan should do so by June 30. It remains unclear as to whether the plan is obligated to file (or whether a U.S. person with less than 50% ownership in a foreign investment partnership or corporation needs to file).

If a plan does file by June 30, it is recommended that it include a cover letter indicating that (1) it made its filing because of the recent public statements of IRS officials regarding the FBAR form, (2) it is attempting to provide all required information, (3) it will provide additional information required by the IRS, and (4) it will provide FBARs for prior years, if required by the IRS.

If the plan is not in a position to file by June 30, recent IRS guidance permits the plan to file by September 23 and avoid late filing penalties, although late filing introduces additional uncertainties.

While it is not clear that the IRS will provide any clarification on the FBAR filing requirements, we hope to receive some clarification on the need for public plans to file between now and September 23.

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