

SERVICING THE US INVESTOR

FATCA – SEC REGISTRATION

Impact for Foreign Non-US Asset and Fund Managers
Seminar - May 23, 2011 - Beau Rivage - Geneva



Fernand Schoppig, CFP, CIMA, CIMC
President

FS Associates, New Jersey

Kenneth Schwartz
Managing Partner

SCHWARTZ LLC, New York

Mark Berman
Former SEC Lawyer
Founder

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CEO LETTER

Dear Executive,

Dodd Frank Act in its Title IV related to Investment Funds and Adviser Registration covers a vast array of financial activity from retail to institutional with domestic and extra-territorial consequences and makes major changes to the registration of private fund managers and eliminates the availability of the registration exemptions by foreign hedge funds and private equity funds.

The old exemption from registration for advisers with fewer than 15 US investors is eliminated as of July 21, 2011 and is replaced by new exemptions that are limited and therefore not terribly useful.

Consequences of this are to file a SEC registration to passport across the US and avoid the tremendous burden to undertake a review of the securities law on a state by state basis.

Advisers' registration with the SEC implies the filing of Form ADV to disclose detailed information regarding the adviser's business.

Registered advisers will face many obligations including compliance procedures, code of ethics, conflicts of interest disclosure, compliance officer designation, extensive books and records maintenance requirements...

Registered investment advisers will be required also to report once a year through the filing of Form PF thus providing significant amounts of detail regarding the private funds they advise – compliance date for filing may be as earlier as 12/15/2011.

Although seemingly in contradiction with Dodd Frank, Foreign Account Tax Compliance Act, FATCA is an over-reaching piece of legislation on tax avoidance that will trigger all financial intermediaries to enter agreement with US tax authorities and enforce tax information reporting and withholding for US persons investing via/in non-US entities.

Investments funds and Collective Investment Schemes are in the scope; therefore mutual/hedge/private equity/FoFs/ETF/managed accounts are all concerned by FATCA with some exclusion that would need to be reviewed and monitored on an ongoing base.

Custody, fund administration, private banking and transfer agency functions are all impacted by FATCA and it is therefore paramount to understand the different duties of FATCA and how they will need to be address on the value chain of your organisation.

We have set-up a very useful panel of experts mostly US-based and starting with an overview of the cross-border provision of asset management services to set up the scene on how the servicing of US investors will affect non-US investment advisers and all financial intermediaries and fund structures.

We look forward to welcoming you in Geneva, May 23rd for a highly informative and practical conference addressing the far reaching US regulatory reform that will have ripping effect to non-US financial institutions and managers in a similar magnitude as the AIFM Directive in Europe.

Yours Sincerely,

François Golbery
Chairman
MGI SA, Switzerland

Who should attend?

Asset & Portfolio Managers
Fund Managers
Investment Advisers
Fund Promoters & Administrators
Head of Legal, Tax & Compliance
Head of Depository
IT – Transfer Agent - Registrar
Accounting & Reporting
Tax Lawyers

Foreign Financial Institutions deem to enter agreement with US Tax Authorities

Mutual Funds	Hedge Funds
UCITS Funds	Venture Capital Funds
Private Equity Funds	ETF
Fund of Funds	Commodity Pools
Other Managed Funds	

PROGRAM

9.00 - 10.30 am SESSION 1

ASSET SERVICING OFFERING TO THE US

How to Offer Asset Management Services to US Investors – The non-legal Do's and Don'ts

- The US Asset Management Industry at a glance
- Different institutional client segments and how to get their attention
- Wealth management in the United States – the major providers and how they differentiate structurally
- Cross-border distribution of Asset Management services - what are the Europeans doing?
 - Perceived strengths/perceived weaknesses
 - Attractiveness of different business strategies
 - What are the professional qualifications for marketing professionals according to European and US Managers?
 - Degrees of satisfaction and dissatisfaction with cross-border asset Management
 - Strategic alliances and joint ventures
 - The do's and the don'ts

Fernand Schoppig, CFP, CIMA, CIMC

President

FS Associates, New Jersey

10.30 – 11.00 am Coffee Break

11.00 - 13.00pm SESSION 2

SEC ADVISER REGISTRATION & OTHER US REGULATORY ISSUES

- Adviser registration requirements and exemptions
- Benefits of a US registration
- Consequences of failure to comply with US requirements (Sanctions)
- Registration procedure, overview of Form ADV
- Ongoing compliance obligations, compliance program and Chief Compliance Officer
- Books and records maintenance
- Custody rules – solicitor rules – marketing rules
- Reporting requirements
- How to handle and speed-up the process to ensure on-time compliance?
- Blue sky issues
- Offering foreign fund interests to US investors – exemption under Securities Act and Investment Company Act
- Current CFTC exemptions and exclusions for CPO's /CTA's – CFTC proposal to eliminate certain exemptions

Kenneth Schwartz

Managing Partner

SCHWARTZ LLC, New York

PROGRAM

THE PRACTICAL IMPLICATIONS OF SEC REGISTRATION FOR NON-US MANAGERS

- What is involving with registration
- Mock inspections
- Annual reviews

Mark Berman

Former SEC Lawyer

Founder

COMPLIGLOBE, London

13.00 Lunch

14.00 - 15.30 SESSION 3

FATCA

- Scope of FATCA
- FATCA provisions & requirements (in particular Section 501 FACTA)
- (Specified) US-Person and United States Owned Foreign Entity – Non Financial Foreign Entity (NFFE).
- Status of the discussions for an exemption of “widely held collective investment vehicles” under Sec. 1471 (b) (2) (B) (See Page 41 of the Technical Explanations)
- Foreign Financial Institution (FFI) Agreements
- On-going due diligence and reporting duties (treatment of existing investors/clients, frequency of re-identification)
- FATCA infringements & penalties

Stanley C. Ruchelman

Managing Partner

THE RUCHELMAN LAW FIRM, New York

15.30 - 16.00 Coffee Break

16.00 - 17.30 SESSION 4

FOREIGN FINANCIAL INSTITUTIONS WHAT THEY CAN AND HAVE TO DO NOW?

- Decision on entering into a FFI Agreement – impact on the FFI's business model
- Challenges to the bearer share/unit and the nominee system
- Implications to the definition of the investment universe and the fund set-up
- Subscription and sales documentation implications
- Customer relations documentation implications and on-going due diligence process - Need for termination of relationship with non-cooperative clients

Gerhard Niggli, LL.M

Attorney At Law

NIGGLI RECHTSANWÄLTE, Zurich

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SPEAKERS

**Fernand Schoppig, CIMA,
CIMC, CFP
President, FS Associates,
Inc.**



Fernand Schoppig is the President of FS Associates, Inc. an international financial consultant specializing in money management counseling, both on the traditional and alternative investment side. Furthermore, the firm has as business consulting practice that specializes in cross-border strategic alliances in the money management arena, particularly between Europe and the United States. Before establishing FS Associates in 1988, Mr. Schoppig ran the Private Banking and Asset Management Department of Bank Leu's New York Branch, where he was responsible for establishing global investment policy and the development of unique "niche" products in international financial planning, geared towards foreign and domestic high net worth individuals. Prior to joining Bank Leu, Mr. Schoppig was a co-founder and an Associate Director of SBC Portfolio Management International, New York, an affiliate of UBS's predecessor Swiss Bank Corporation, specializing in global asset management for institutional clients. He was also the firm's compliance officer, directly responsible for all legal administrative and strategic planning matters. In Switzerland, Mr. Schoppig was a global investment strategist with the Swiss Bank Corporation and other leading banks.

Fernand Schoppig was born in Basel, Switzerland where he received his basic education in banking and investment management. He was awarded the Swiss Federal Banking Diploma, the highest educational degree in Swiss banking. Mr. Schoppig is also a Certified Financial Planner, a Certified Investment Management Analyst and a Certified Investment Management Consultant.

Mr. Schoppig, is a sought after domestic and international speaker on issues pertaining to the global investment management industry. Mr. Schoppig is a past member of the Board of the Institute for Certified Investment Management Consultants.

SPEAKERS

**Kenneth Schwartz,
Managing Partner,
SCHWARTZ LLC, New
York**



Kenneth Schwartz is the Founder & Managing Partner of Schwartz LLC, a law firm dedicated to serving private equity funds, buyout firms, investment banks, corporations and major private investors active in emerging markets. He concentrates on private equity investments, private equity fund formation, offshore and global holding entities, foreign direct investments in emerging markets, international corporate and securities transactions, mergers and acquisitions, joint ventures, commercial loan facilities, debt and equity raising programs and other corporate finance transactions. Kenneth Schwartz routinely advises on investment advisory agreements, co-investment agreements, private equity fund agreements, internal agreements of private equity fund managers, carried interest allocation plans, advisory and sub-mandate agreements among investment banks. Ken also advises corporations on international tax aspects of cross-border investments and has wide experience in structuring offshore and European holding companies, investment limited partnerships and private placements. Prior to founding Schwartz LLC, Kenneth Schwartz was a partner at Grant, Herrmann, Schwartz & Klinger LLP and the head of its private equity and securities practice. Kenneth joined Grant, Herrmann after working as a foreign associate at the Mexican law firm Bryan, González Vargas y González Baz, in Mexico City and in Ciudad Juárez, where he concentrated on strategic investments by Fortune 500 multinational corporations in Mexico. Before working in Mexico, Ken was a corporate associate at the New York law firm Siller Wilk LLP. Ken is a member of the Board of Directors of the Mexican Cultural Institute of New York. His wife is from Mexico. They have two daughters and live in New York City. Ken received his law degree from the University of Miami School of Law in 1991 and graduated from Fordham University in 1988 (B.A., History). Ken is fluent in Spanish, Portuguese and French, and has published several articles and spoken at conferences on a variety of corporate and securities law topics.

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SPEAKERS

Mark Berman
Former SEC Lawyer
Founder
COMPLIGLOBE, London



Mark Berman, the founder and a principal of CompliGlobe Limited, advises and conducts training programmes for hedge funds, investment managers, issuers and multi-national banks and brokers in Europe and Asia on SEC practice outside the United States, UK and EU issues and cross-border regulatory, compliance and AML matters. Mark was a senior lawyer with the Division of Corporation Finance and the Division of Market Regulation of the US Securities and Exchange Commission where he worked on domestic and foreign private issuer disclosure and trading practices issues, respectively. He was a senior lawyer with the London Stock Exchange where he advised on UK, EU and US supervision, surveillance and regulatory matters and listing rules issues, and drafted the 1994 re-write of the trading rules.

Stanley C. Ruchelman,
Managing Partner, THE
RUCHELMAN LAW FIRM,
New York



STANLEY C. RUCHELMAN concentrates his practice in the area of tax planning for privately held transnational business operations with emphasis on intercompany transactions. Mr. Ruchelman represents companies in matters involving the I.R.S. and counsels corporate clients on transfer pricing issues and worldwide reorganizations. He advises foreign private clients on structuring investments in the United States. Mr. Ruchelman has authored numerous monographs on international taxation for a variety of publications and treatises. In addition, Mr. Ruchelman is a frequent lecturer on that subject, having spoken at conferences sponsored by, inter alia, the Practising Law Institute, New York University Tax Institute, the American Bar Association, and the International Fiscal Association.

Mr. Ruchelman was an international tax partner at one of the major international accounting firms, where he practiced for eight years representing clients involved in cross border trade and investment. Mr. Ruchelman was a Senior Attorney in the Legislation & Regulations Division of the Office of Chief Counsel, Internal Revenue Service, where he participated in the negotiation of income tax treaties and the development of legislative and regulatory policy affecting international business. Prior to that, Mr. Ruchelman was an Attorney Adviser to the Honorable Charles R. Simpson, Judge of the U.S. Tax Court. Mr. Ruchelman is a fellow of the American Bar Foundation and of the American College of Tax Counsel.

SPEAKERS

He is a former Chair of the Committee on U.S. Activities of Foreigners and Tax Treaties, Section of Taxation, American Bar Association and the International Tax Committee, Section of International Law and Practice, American Bar Association. Mr. Ruchelman served on the National Council of the International Fiscal Association -- USA Branch. Mr. Ruchelman received his J.D. Degree with honors from George Washington University (1972) and his undergraduate degree from Brooklyn College (1968)

Gerhard Niggli, LL.M.,
Attorney At Law, NIGGLI
RECHTSANWÄLTE,
Zurich



Gerhard Niggli is the founder of Niggli Rechtsanwälte, a boutique law firm based in Zollikon-Zurich, Switzerland, specializing in financial law with a particular emphasis on capital markets, collective investments, financial products and asset management. Gerhard Niggli has more than 20 years of experience, primarily as a partner in an old established law firm in Zurich - Pestalozzi Lachenal Patry. Practice covers regulatory and transactional side of collective investments, capital markets, derivatives and structured finance. Gerhard Niggli holds an LL.M. from University of Chicago Law School and a Lic. jur. from the University of Zurich. Gerhard Niggli holds teaching positions at the University of Liechtenstein, Zurich University of Applied Sciences, Winterthur, and Hochschule für Wirtschaft Zürich.

AIFM LEVEL TWO MEASURES

November 9 & 10 2011,
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(Agenda to be announced)

AIFM LEVEL TWO MEASURES

November 16 & 17 2011,
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With the participation of:

Federico Cupelli
European Commission
DG MARKT Unit G4
Asset Management

Prof. J V Bannister
Chairman
MALTA FINANCIAL SERVICES AUTHORITY
Malta

Peter Astleford
Partner
DECHERT LLP, London

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The publisher of the Absolut|report, Michael Busack, has been active in the Alternative Investment market for the past ten years and is the co-chairman of the German Alternative Investment Association (BAI).

VIP INVITATION
 On behalf of Stanley C RUCHELMAN
 with 50% Discount on the Standard Registration Fee
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In Europe, MGI SA is at the forefront to highlight European initiatives within the Lamfalussy procedure. Its total independence and ongoing privileged relationship with best talented global leaders and experts ensure a strategic approach to address the most relevant issues through its conferences.