

Private Securities Offerings in the United States by Offshore Investment Funds

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September 1, 2004 by Robert A. McTamane

Our memorandum entitled "Private Securities Offerings in the United States by Offshore Investment Funds," analyzes the complex U.S. securities, tax and pension law issues arising when a non-U.S. domiciled fund is offered in a private placement into the U.S. in conjunction with a concurrent foreign public offering of the fund's shares or units. The memorandum is also be of interest to those organizing hedge funds and similar investment pools.

The memorandum addresses certain issues raised in the marketplace and by our offshore fund clients and reflects a substantial number of important recent changes in this area of the law. Prominent changes in this edition are revised models for the new "3(c)(7) funds" created by the National Securities Markets Improvements Act of 1996, discussions of the evolution of the Touche Remnant doctrine and its current application in secondary market transactions, and how the repeal of the "Ten Commandments" allows offshore funds to perform their back office operations from the U.S. As with previous editions, this edition of our memorandum also includes models for the U.S. private placement "wrap" which would be distributed to U.S. institutional investors purchasing the fund's shares or units in the U.S. private placement.

[Click here to download the memorandum.](#) It is 108 pages in length with 45 pages of model forms and 824KB.

Please free to contact the author **Robert A. McTamane** (mctamane@clm.com).
