

A large, abstract graphic in the top right corner consists of a network of blue squares connected by lines, forming a spherical shape that resembles a globe or a complex web structure.

# United States

## Accounting

FUNDS AND FUND MANAGEMENT 2009

Note: Funds take many different forms in the United States. Typical structures include:

- Registered mutual funds (often times referred to as registered investment companies or RICs)
- Investment partnerships (regardless of asset class), including various types of:
  - hedge funds;
  - infrastructure funds;
  - real estate funds; and
  - private equity funds
- Commodity pools
- Business development companies (BDCs)
- Small business investment companies (SBICs)
- Common and collective trust funds
- Unit investment trusts
- Some combination or permutation of the above

Regardless of type of fund, the accounting rules generally classify investment companies as either registered investment companies (those registered under the Investment Company Act of 1940 and the Securities Act of 1933), '33 Act registered funds (those Registered solely under the Securities Act of 1933), or non-registered funds. See section 2.1 for further information pertaining to types of funds.

## 1.1 Requirement to produce financial statements

### Requirement to maintain the books and records in the local jurisdiction

Funds may be registered with the Securities and Exchange Commission (SEC), such as RICs, BDCs, and '33 Act registered funds (such as, registered commodity pools) (collectively, registered funds). In these cases, the SEC rules applicable to such structures will govern the books and records requirements.

If the investment adviser to the funds is a registered investment adviser under the Investment Advisers Act of 1940, then SEC rules and regulations pertaining to those advisers generally governs the books and records requirements.

Commodity pools are also subject to requirements under the Commodity Exchange Act as overseen by the Commodity Futures Trading Commission (CFTC). Registered commodity pools would be subject to the rules and regulations of the SEC and CFTC.

For those funds, where the funds and adviser are not subject to specific regulatory guidance, the books and records requirements are subject to the funds governing documents and general securities laws.

### Production of financial statements

Funds registered with the SEC are subject to the production of financial statement requirements of the SEC and applicable laws, rules, and regulations.

Commodity pools are subject to the financial statement requirements of the CFTC and applicable laws, rules, and regulations.

Investment advisers which satisfy the custody requirements of rules pertaining to the Investment Advisers Act of 1940 through the timely issuance of fund level financial statements, must meet the financial statement production requirements of those rules or have their independent accountant undertake a surprise security count.

For all other funds, the production and timing of financial statements is generally driven by the governing documents of the funds, such as, partnership agreements and/or offering memorandums.

### Choice of period/year-end for collective investment funds

Choice of a fiscal yearend is often times elective, but typically chosen based on one or more of the following factors:

- U.S. tax considerations

- Resource considerations
- Investor and debt provider needs

For funds which are registered, notifications pertaining to a fund's fiscal year are driven by the applicable regulatory requirements.

#### Requirement for comparatives

Comparatives are generally required for registered funds and commodity pools. Comparative financial statements generally are not required for non-registered funds which are not commodity pools, however, the governing documents of these funds needs to be consulted.

#### Restrictions on the currency under which financial statements must be prepared

The reporting currency is generally specified in the governing documents of the fund. U.S. GAAP requires the financial statements be prepared in the functional currency of the fund. Functional currency is defined in the authoritative accounting literature.

#### Accounting publications specific to the funds industry (as issued by accounting bodies or the regulators)

Much of investment company accounting under U.S. generally accepted accounting principles is provided or summarized in the American Institute of Certified Public Accountants Audit and Accounting Guide for Investment Companies.

Registered funds must comply with applicable securities laws and the rules and regulations of the SEC. Key laws for funds may include the following:

##### *Securities Act of 1933*

This Act, often referred to as the disclosure act, regulates the contents of prospectuses and similar documents and is intended to assure that potential investors receive adequate information to make reasonably informed investment decisions.

##### *Securities Exchange Act of 1934*

The Act regulates securities brokers and dealers, stock exchanges, and the trading of securities in the securities markets.

### *Investment Company Act of 1940*

This Act regulates the registered investment company industry and provides rules and regulations that govern the fiduciary duties and other responsibilities of an investment company's management. BDCs elect to be regulated under certain sections of this Act.

### *Investment Advisers Act of 1940*

This Act requires certain persons paid to render investment advice to individuals or institutions, including investment companies, to register, and regulates their conduct and contracts.

### *Small Business Investment Act of 1958*

This Act authorizes the small business administration (SBA) to provide government funds under regulated conditions to SBICs licensed under this Act.

### *Small Business Incentive Act of 1980*

This Act amended the 1940 Act by, among other things, allowing certain closed-end companies to elect to be regulated as BDCs under less rigorous sections 54 through 65 of the Investment Company Act of 1940.

### *Commodity Exchange Act*

The Act governs and provides for regulation of the commodities markets and participants, including commodity pools, and commodities trading advisers.

### **Use of short-form accounts**

There are no provisions in legislation for short-form accounts.

### **Umbrella schemes**

Reporting for umbrella schemes generally depends on defining the reporting entity based on the guidance in U.S. GAAP.

### **Classes of shares**

Financial statements are required which incorporate all classes of shares for the reporting entity. It is possible in certain circumstances to have one class of shares defined as the reporting entity, this is generally the case, when each class of shares has separate assets and liabilities from the other class(es).

## 1.2 Requirement to audit financial statements

Requirements to audit financial statements are dependent on the regulatory scheme under which they fall. Generally speaking, regulated funds require annual audited financial statements under various timelines. Certain regulated funds must also provide for un-audited accounts on a periodic basis (such as, quarterly or semi-annually). The requirements for audited financial statements for non-registered funds is dependent on the provisions of the fund's governing documents.

## 1.3 Publication of financial statements

Requirements to publish financial statements are dependent on the regulatory scheme under which they fall. Generally speaking, the frequency and form with which financial information is published for regulated funds is dependent upon the fund's regulatory scheme. The requirements for publishing financial statements for non-registered funds is dependent on the provisions of the Fund's governing documents.

## 1.4 Accounting standards

For regulated funds, U.S. GAAP is generally required. For non-registered funds, the governing documents generally dictate the accounting standards.

## 1.5 Contents of financial statements

Requirements for inclusion in annual financial statements:

### Non-registered funds

- A statement of assets and liabilities with a schedule of investments or a statement of net assets, which includes a schedule of investments therein, as of the close of the latest period (or as dictated by regulation). At a minimum, a condensed schedule of investments should be provided for each statement of assets and liabilities.
- A statement of operations for the latest period (or as dictated by regulation).
- A statement of cash flows for the latest period (or as dictated by regulation) (if not exempted by Financial Accounting Standards Board).
- (FASB) Statement of Financial Accounting Standards No. 102, Statement of Cash Flows—Exemption of Certain Enterprises and Classification of Cash Flows from Certain Securities Acquired for Resale.

- A statement of changes in net assets for the latest period (or as dictated by regulation).
- Financial highlights for the latest period (or as dictated by regulation) consisting of per share operating performance, net investment income.
- expense ratios and total return for all investment companies organized in a manner using unitized net asset value.

### Registered Investment Companies

- A statement of assets and liabilities with a schedule of investments or a statement of net assets, which includes a schedule of investments therein (that is, a detailed list of investments in securities, options written, securities sold short, and other investments), as of the close of the latest period. A schedule of investments should be provided for each statement of assets and liabilities in conformity with rule 12-12 or 12-12C of Regulation S-X of the Securities Act of 1933.
- A statement of operations for the latest year.
- A statement of cash flows for the latest year (if not exempted by FASB No. 102, Statement of Cash Flows—Exemption of Certain Enterprises and Classification of Cash Flows from Certain Securities Acquired for Resale.
- A statement of changes in net assets for the latest two years (for semi-annual reports, the most recent semi-annual period and preceding fiscal year).
- Financial highlights for the latest five fiscal years (for semi-annual reports, the semi-annual period and generally the preceding five fiscal years).

## 1.6 Accounting treatments and disclosures

Accounting treatments and disclosures are generally outlined in the AICPA Audit and Accounting Guide for Investment Companies and other authoritative accounting literature. Registered Investment Companies, must also follow the guidance for financial reporting contained in Article 6 of the SEC's Regulation S-X.

## Appendix

### Reference material

The following details relevant regulators for funds and their advisers and provides Web addresses (in certain instances) for where their material can be located:

### Regulators

- U.S. Securities and Exchange Commission (SEC) ([www.sec.gov](http://www.sec.gov))
- U.S. Commodity Futures Trading Commission (CFTC) ([www.cftc.gov](http://www.cftc.gov))
- National Futures Association (NFA) ([www.nfa.futures.org](http://www.nfa.futures.org))
- New York Stock Exchange ([www.nyse.com](http://www.nyse.com))
- NASDAQ ([www.nasdaq.com](http://www.nasdaq.com))
- Financial Industry Regulatory Authority (FINRA) ([www.finra.org](http://www.finra.org))
- Internal Revenue Service (IRS) ([www.irs.gov](http://www.irs.gov))

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