

## CLIENT ALERT

### UPDATE: Hedge Fund Transparency Act of 2009

Feb.09.2009

On February 2, 2009, we issued a ["Financial Services Alert"](#) reporting on the Hedge Fund Transparency Act ("HFTA") introduced by Senators Grassley and Levin. As explained, the HFTA, if enacted, will require hedge funds and other private investment funds, such as private equity funds and venture capital funds, to register with the Securities and Exchange Commission as "investment companies" within the meaning of the Investment Company Act of 1940.

Since the legislation was proposed at the end of January, some have raised concern that the HFTA would require private investment funds to disclose the names and addresses of all fund investors. On February 5, 2009, Senator Levin issued a press release explicitly rejecting that interpretation of the HFTA.

Senator Levin clarified that *"the bill to regulate hedge funds does not require the disclosure of hedge funds who merely invest in the fund."* Rather, Senator Levin stated: *"the bill requires disclosure of a hedge fund's beneficial owners, who profit from the fees generated in operating the fund."* According to Senator Levin, *"any interpretation or characterization of our bill as requiring hedge funds to disclose their clients' names is incorrect."*

The confusion likely stems from the current language in the proposed legislation that requires disclosure to the SEC of the identity of *"each natural person who is a beneficial owner of the investment company."* To ensure clarity and allay the expressed concerns, Senators Grassley and Levin may need to re-write this requirement so there is no doubt as to what is meant by beneficial ownership of the investment company.

We will continue to monitor this proposed legislation and provide updates as needed.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.