

Deferred Compensation Rules May Affect US Employees of Foreign Corporations, Including Foreign Subsidiaries of US Corporations

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New rules on deferred compensation, enacted as part of the Emergency Economic Stabilization Act of 2008 on October 3, 2008, may have a much broader scope than originally anticipated. These rules may affect, for example, the deferred compensation of US individuals employed by foreign corporations and foreign subsidiaries of US financial institutions and other nonfinancial US corporations, even though such deferred compensation otherwise complies with the requirements of Section 409A. The new provision, Section 457A of the Internal Revenue Code, is generally effective for deferred compensation attributable to services performed after December 31, 2008.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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