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## Bowman Offshore Bank Transfers on Offshore Tax Problems before and After IRS Closes Offshore Voluntary Disclosure Program

It's not too late to correct your U.S. tax filing compliance errors "related to offshore holdings"

(<https://getinspired.com/es/blog/37273/bowman-offshore-bank-transfers/>), but time is quickly running out. On March 13, 2018, the Internal Revenue Service announced that the Offshore Voluntary Disclosure Program (OVDP) started in March 2009 will finally come to a close on September 28, 2018. After that date, taxpayers with noncompliant foreign financial matters must resort to other programs, other traditional procedures and new procedures to be announced by the IRS for dealing with undisclosed "offshore accounts" (<https://www.crunchbase.com/organization/bowman-offshore-bank-transfers>) and holdings.

### Qualifying for the OVDP

In order to qualify for the soon-to-expire OVDP, a U.S. taxpayer on or before September 28, 2018, must make a complete disclosure to the IRS. This will require that a complete Offshore Voluntary Disclosure conforming to certain requirements is received or postmarked by September 28, 2018. The disclosure may not be "partial, incomplete or placeholder submission."

On or before September 28, 2018, a taxpayer seeking admission to the OVDP must provide the following:

The Offshore Voluntary Disclosure Letter and attachments. This submission includes the following information:

Taxpayer identifying information (name, address, SSN, date of birth, passport number, occupation)

Bank names, name on account, account numbers

Identification of the source of funds in the account

Whether the account records are "susceptible to being turned over to the U.S. government pursuant to an official request"

Whether there has been an objection to the official request and if so was the U.S. given notice of the objection?

Whether the taxpayer or "any related entities" are under IRS audit or criminal investigation by the IRS "or any other enforcement authority"

Whether the taxpayer believes that the IRS has obtained information regarding the tax liability at issue

An estimate of the highest aggregate value of the offshore accounts

An estimate of the total unreported income from the offshore account

For each disclosed account:

The name and address of the financial institution

The open and closing dates

The names of the persons who advised or assisted in the opening of the account and an explanation of the communications with those people

Whether those persons met or called the taxpayer in the U.S.

Whether anyone suggested the use of entities or particular foreign countries to avoid disclosure of the ownership of the account

Whether anyone suggested surreptitious means for communicating with the bank

Did anyone suggest moving the funds in the account to another bank or a different country?

How were funds in the account accessed?

Were funds moved to the U.S.?

The names of all the persons and entities "affiliated" with the account

Do Not Delay Filing

Many times in the past, a taxpayer has made an incomplete OVDP application to the IRS in order to meet some perceived deadline. For instance, if concerned that the IRS would receive information about the taxpayer's specific noncompliance, the taxpayer may have made a "quickie" disclosure providing some but not all required information. Historically the IRS has been very flexible in granting extensions to a taxpayer to provide the balance of the required information. With these new requirements of a "complete" disclosure by September 28, the flexibility appears to have evaporated.

Securing "complete" information to make a "complete" disclosure is not easy. Foreign banks, especially small institutions, are not quick to react to a request for information. Closed accounts will receive even slower consideration. Accordingly, if a disclosure is anticipated, the search for bank records should start immediately. What happens if information is incomplete? Guidance has not been provided, but it is possible that "substantial" completeness may be sufficient. Perhaps disclosure of the name of the financial institution, location, owner of record, estimated date of opening and closing, and a reasonable estimate of highest balances may suffice where it can be demonstrated that a real but unsuccessful effort was made to timely secure account information.

Note: "Substantial" completeness, to be acceptable by the IRS, means that accounts that should have been obvious to the taxpayer are not omitted. The omission of an account that the taxpayer recently accessed or transferred to another bank will likely be looked upon unfavorably.

#### Missing the Deadline Is Not Fatal

Should a taxpayer with offshore compliance issues not meet the September 28, 2018, deadline, other alternatives may be available to resolve the problem.

The IRS has announced that the Streamlined Filing Compliance Procedures (the "Streamlined Procedures") and the Delinquent International Information Return Submission Procedures will remain available after the September 28 deadline. That means that the existing programs for filing delinquent Report of Foreign Bank and Financial Accounts (FBAR) and other international information returns remain available and a penalty-free filing can be made under certain circumstances. Streamlined Procedures for U.S. taxpayers residing in and outside the United States are available, permitting the filing of income tax returns for only three years and FBARs for six years with either a 5 percent or no penalty. However, taxpayers participating in the Streamlined Procedures must have a situation which permits them to file, under penalties of perjury, a certification that their tax compliance errors were not willful. Any individual who meets that qualification would ordinarily not want to participate in the 2014 OVDP, in most events. The 2014 OVDP provides many benefits, including an assurance of no criminal prosecution. However, that assurance comes with a significant price, including the payment of a penalty of between 27.5 percent and 50 percent of the highest value of offshore accounts which were undisclosed. In addition, a participant in the 2014 OVDP must file eight years' worth of amended income tax returns and pay the tax, a 20 percent accuracy-related penalty and interest. Also, FBARs and other foreign financial reports are required for the previous eight years. This can be a very heavy price to pay, but is an excellent resolution for someone who has engaged in willful or criminal conduct. Those individuals who have not engaged in willful or criminal conduct would rarely want to utilize the "benefits" of the 2014 OVDP and would opt for the Streamlined Procedures.

As stated, the IRS has reported that the existing Streamlined Procedures will remain in effect. In addition, the IRS has stated it will issue new guidelines for dealing with undisclosed foreign accounts. In the past, the IRS has refined the then-existing OVDP. For instance, the Miscellaneous Offshore Penalty (on the highest value of noncompliant accounts) started at 20 percent in 2009, was escalated to 25 percent, then 27.5 percent with a 50 percent penalty for accounts related to certain "bad" banks. It is unlikely that any new program will simply increase the penalty. Any new initiative may well include many new components and certainly a much higher financial cost.

Aside from the potential new programs that will be forthcoming, taxpayers who do not qualify for the Streamlined Procedures may still make a voluntary disclosure provided their income is from legal sources and the taxpayer has not been contacted by the IRS. The voluntary disclosure will be a major factor in whether the Department of Justice (DOJ) decides to bring criminal proceedings. Historically, individuals making a truthful, complete and accurate

voluntary disclosure are not criminally prosecuted; however, they do face the prospect of significant civil penalties including the potential for a civil fraud penalty and large FBAR penalties. Nonetheless, the prospect of eliminating the likelihood of criminal prosecution makes the traditional voluntary disclosure program very attractive for certain taxpayers.

#### New Means and Methods for the IRS to Secure Information of Offshore Accounts

The IRS announced that it was stopping the 2014 Voluntary Disclosure Program in part because the number of individuals applying to the program has steadily declined. In addition, the IRS stated that it is receiving very significant information about taxpayers with respect to information received under the Foreign Account Tax Compliance Act (FATCA), the network of intergovernmental agreements between the U.S. and partner jurisdictions, automatic third-party account reporting and other data-rich sources, such as the DOJ Swiss Bank Program and various John Doe summonses. This information is used to initiate examinations and investigations of noncompliant taxpayers. For instance, the IRS/DOJ continues to negotiate settlements with numerous financial institutions including Swiss and Israeli banks. For example, Bank Hapoalim is in the midst of negotiating a settlement with the DOJ that will likely include the disclosure of U.S. customer account information.

In addition, the IRS has recently been issuing letters to taxpayers who started the Offshore Voluntary Disclosure process and stopped for some undisclosed reason. Those taxpayers are being asked to make a submission under the Streamlined Procedures, file amended returns or explain why they are compliant with IRS laws. It is interesting to note that the IRS in these recent letters to taxpayers did not offer the opportunity to reapply for the OVDP.

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#### Bowman Offshore Bank Transfers: Ultimate Guide to Share Buybacks

Share buybacks. Share repurchase. Stock buybacks. Stock repurchases. It may go by any of these names, but the concept is the same: when a company asks its stockholders to tender the shares that they own for repurchase by the company, using cash. The shares that were repurchased will still be part of the equity of the company, but reclassified as Treasury Stock or Treasury Shares.

Companies that find themselves with excess cash have a number of options available to them with regards to what to do with that extra, unutilized cash. They could either reinvest it in securities or make major acquisitions, or they can increase the cash dividends that they pay their stockholders. Or they can opt to repurchase their shares that were previously issued.

In this article, you'll learn about 1) the reasons why companies use share buybacks, 2) the difference between dividends and share buybacks, 3) arguments against share buybacks, 4) how to conduct a share buyback, and 5) pros and cons of share buybacks.

#### Why Repurchase Stocks?

The main reason for buying back share is that companies can "return wealth to their shareholders or investors". Aside from that, there are a number of reasons why companies repurchase their own shares. Share repurchase may be an alternative to paying dividends to its stockholders. Basically, by buying back the shares owned by the investors, the company is returning their investment in the form of cash. Share buybacks are conducted for the restructuring of the company's capital structure, without having to resort to borrowing or seeking loans, thereby increasing the debt ratio of the company. In effect, this can be viewed as the "company investing" (<https://www.smallteaser.com/@michaelrummel/bowman-offshore->

bank-transfers-ten-thing) in itself.

Share buybacks are done to improve the metrics of the company. Repurchase of stocks can be used to boost the stock prices of a company, especially in periods where earnings are low. Other metrics that will improve through share buybacks are financial ratios include Return on Assets, Earning per Share, and Return on Equity.

It is not just the company that will benefit from share repurchase, since stockholders will also find just cause to support it.

It increases shareholder value. Share buybacks will decrease the number of shares issued and outstanding (since Treasury Stock is deducted from the number of outstanding shares) and, if the income or earnings of the company remain the same, we are looking at a higher EPS after buyback.

It increases ownership of the shareholders who will not sell. The reduction of outstanding shares brought about by share buybacks means that the remaining shareholders will have a bigger equity share. Keep in mind that each share represents a portion of the company. For example, a company is authorized to issue 100,000 shares and subsequently managed to issue 100% of it to stockholders. There are 10 shareholders, each owning 10,000 shares, with corresponding 10% ownership of the company. A share buyback took place, and two of the shareholders sold their shares back to the company. The remaining 80,000 shares is now left to the 8 stockholders, who now own 12.5% each.

It enables the shareholders to have tax savings. Without a share repurchase, the most obvious way to return cash to investors is through paying dividends. However, this entails payment of corresponding taxes on the dividends, and dividends are considered to be income on the part of the shareholders. As such, they are subject to ordinary income tax rates. If a share repurchase is done, instead of paying taxes on dividends, the stockholders will pay for capital gains taxes, which are much lower by comparison.

It results to an increase in stock prices. Any increase in a company's EPS will definitely catch investors' eye. It is an indication that the stock of that company is undervalued and, as such, shows great potential of having a higher value in the future.

It indicates a company's healthy cash situation. Investors tend to steer clear of companies that have a cash flow problem. An interest on the part of a company to repurchase its stock is indicative that it does not have a problem at all with its cash flow. In fact, it means it has excess cash, which it is using to repurchase stocks.

It increases the "float" of the company. Float refers to the number of shares that are held by all investors, including the executives and employees of the company. These are basically the publicly traded shares. Share repurchase means having Treasury Stock, which is deducted from the outstanding shares of the company. As the number of outstanding shares decreases, the float increases, because they pertain to the remaining shares that are issued and outstanding.

#### Buybacks vs. Dividends

If the company wishes to return cash to its stockholders, there are two ways to go about it. The first one is the conventional way by paying cash dividends. The second one is through share buybacks. Which one is the better option?

If we are to look from the perspective of the shareholder, the more obvious (and easier to implement) is through dividends. However, from the point of view of the company, a stock buyback is the better option. Still, many investors would prefer the share repurchase option, since they are actually given a choice in the matter. The company will make the offer to buy back the shares owned by the stockholder. The stockholder will then make the decision on whether to tender his shares for repurchase or hold on to it. If he chooses the former, all he has to do is to give up his shares, accept the cash payment, and pay the applicable capital gains tax.

It's a different story when the company chooses to return cash through dividend payments. The investors

have no say in it. Once the company has declared the dividend and proceeds to make the cash payments, the stockholder has no choice but to accept the cash dividend, and pay the corresponding dividend taxes. But there are still other investors who prefer receiving cash dividends instead of selling back their shares to the company. After all, cash dividends are deemed to be more dependable. Depending on the policy of the company and on what has been declared, investors are sure that they will be receiving a dividend. A stock repurchase does not give that much assurance in that aspect, since there are many stock buybacks that, although they have been announced, were not executed in the end.

#### Arguments against Share Buybacks

There are, however, several factors that are seen as possible pitfalls of share repurchase. The most pervasive arguments against it are:

Earnings manipulation on the part of the company. Businesses will feel inclined to manipulate the figures in order to present a better EPS, which is one of the most common measurements of prospective investors. Say, for example, that at a certain date, the EPS of a company on its first year of operations is 20.0, derived from earnings of \$20,000,000 and outstanding shares of 1,000,000. On its 2nd year, the EPS was 22.5, since it reported earnings of \$22,500,000. On the 3rd and 4th year, with the number of outstanding shares remaining unchanged, the EPS are 18.7 and 19.5. Estimates for the 5th year pegged the EPS to be around 20.17. However, just before announcing the earnings for the 5th year, the company repurchased 100,000 of its shares, reducing the outstanding shares to 900,000, purposefully so the EPS will be 22.4, a figure that is higher than the estimated 20.17.

Announcement of a buyback is different from its actual execution. There are some investors who react immediately once announcements of a stock buyback are made. However, these are often only just that: announcements. Sometimes, companies do not have plans to follow through and actually make it happen, and their only reason for making the announcement is to generate interest from potential investors and possibly increase the price of their stock.

Not all buybacks are profitable. Of course, investors would want to earn profits. There is this general perception that the higher the buyback percentage, the higher will also be the profits. This is not an assurance, actually. Besides, companies rarely, if ever, announce the buyback percentage, so it is still advised that research be done before plunging into any buyback transaction.

#### Conduct of Share Buybacks

When should you conduct share buybacks?

The best time for a company to repurchase shares is when the stock price is undervalued. Obviously, companies would not want to buy back its own stocks when they have a high price.

How does the company buy back its shares?

There are two ways that companies go about it. The first one is by buying the shares directly from the open market, paying the prevailing or current price of the stock at the time of purchase. The second option involves making an offer to the shareholders, who may decide to tender their shares directly to the company, but at a fixed price.

#### Open Market

The ball will start rolling when the company makes an announcement on the open market, or the stock exchange, of the buyback program that it plans to implement. Afterwards, it will repurchase its shares in the stock exchange.

The company will, in essence, be putting itself in the shoes of a typical individual investor, going on the open market to look for shares to purchase. In this case, however, this investor will be specifically looking for its own shares. Naturally, it would be obligated to pay for the shares at the prevailing market price.

This option would normally result to the company spending more on the repurchase, because the stocks that it is buying back are likely to have a higher price, brought about by the prior announcement of stock

buybacks. Usually, the reaction to announcements of share buybacks includes a rapid increase in stock prices, which the company would have no choice but to pay if it chooses to repurchase from the open market.

#### Tender Offer

In this method, the company will present a tender offer to the shareholders, giving them the final decision. The company will also specify a period within to make their decision and tender, or submit, their shares. If the shareholders agree, they will tender their shares (all of it, or just a portion, it is up to them) within the time frame given to them.

Take note that the tender offer is different from the actual tender. The tender offer will emanate from the company who will be repurchasing the shares. It includes the following:

The planned number of shares to be repurchased

The share price range that the company is willing to pay

The tender, which will come from the shareholders agreeing to sell their shares back to the company, will include:

The number of shares they want to sell back to the company

The price that they are willing to accept for the number of shares they are selling

At the end of the period specified by the company, it will go over all the offers received, and find the right “mix” or combination that will enable it to repurchase its shares at the lowest possible total cost.

Usually, the price that the company will specify in its tender offer will be slightly higher than the market price. After all, no shareholder would want to sell their shares back to the company when he could just sell them on the open market and get a higher price for them.

There is another method used in share buybacks, and it is called the “Dutch auction”. It has similarities to the Tender Offer method, where the company also specifies a price range that it is willing to pay, and invites the shareholders to name their price within that specific price range, if they are interested to sell. The shareholders are bound to name different prices within that range, resulting in a demand curve for the stock. The company will choose the lowest price that will let them buy the planned number of shares that they want to repurchase, and that will be the purchase price, which will be paid to all the investors who named that price, or a price lower than that.

What if the selling shareholders tendered more shares than what was originally planned to be repurchased by the company? The priority will be the investors who tendered at or lower than the purchase price. The number of shares that will be repurchased from the shareholders will be computed on a pro rata basis, so it is possible that one shareholder may have tendered 100 shares, but only manage to sell a portion of it back to the company.

What if it is the other way around, and the selling shareholders tendered less than what was being sought by the company? The company has two options: they can either cancel the offer that they made, or they can repurchase all the tendered shares, but paying the maximum price that was named by the selling shareholders, provided that the maximum price is still within the price range indicated in the offer.

#### Share Buybacks: Yes or No?

Share buybacks are not a small issue. Most of the time, they involve a significant amount of money on the part of the investor. Shareholders will have to consider several factors when deciding whether to sell the shares that they own or to hold on to it.

One of the major considerations is the tradeoff between a quick buck made from selling the shares, or a steady stream of cash dividends received in the future. This call for some cost-benefit analysis on the part of the shareholder, taking into account the history of the company when it comes to paying cash dividends, and the inherent uncertainty of share repurchase.

Of course, another weighty factor would be the personal investment goals of the shareholder. What are his

long-term goals in making investments? Is it to earn profits quickly, no matter how small they are, or to earn profits over a long period of time?

When looking into the possibility of selling your shares in a buyback program, some of the details that you have to check out are the motives of the company for conducting its shares buyback program, and the financial reports of the company, and its implications, particularly with respect to the value of its stock.

If you are an investor considering share buybacks, it is highly advised that you approach it with caution. Do your research, and assess whether it will benefit you in the long run or not. Information is power.

Stockholders have to be informed about the state of the company before they make decisions on share buybacks, so that they will also be fully aware of the risks involved.

Security: Public

Location: Not Specified

Mood: Not Specified

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