

Bureau of Economic Analysis (BEA) Issues New Form BE-180 for U.S. Financial Services Providers Including Investment Advisers

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September 29, 2015

Now that the dust has settled a little on the BE-10 benchmark survey responses, U.S. financial service providers, including investment advisers, should take note that the U.S. Bureau of Economic Analysis (the “BEA”) has released the **Form BE-180, Benchmark Survey of Financial Services Transactions Between U.S. Financial Service Providers and Foreign Persons**. The BE-180 survey is conducted by the BEA every five years to monitor U.S. exports and financial services transactions in order to analyze their effects and formulate policy. **If you are a U.S. investment adviser that provides management services to an offshore fund, then you should review the instructions of the Form BE-180 as you may have filing obligations.**

The BEA technically requests BE-180 submissions by October 1, 2015. However, the BEA has recognized the hardship of this deadline due to other BEA surveys with 2015 deadlines and because of automatic extensions discussed below, the filings are now required by **November 1, 2015 or December 1, 2015**. Similar to the BEA’s other recently issued survey forms, including the BE-10 and BE-13, all applicable U.S. entities that meet the broad reporting requirements discussed below must file either part or the full Form BE-180, even if the BEA has not contacted them.

Reporting Triggers

A U.S. person that is a financial service provider or intermediary with total financial services either *directly* sold to, or purchased from, non-U.S. persons or entities exceeding \$3 million during its 2014 fiscal year must complete the full BE-180 survey. If sales and purchases were both \$3 million or less, the U.S. company is required to provide aggregate data only and may voluntarily provide more detailed information. In determining whether or not it meets the \$3 million threshold for reporting, a U.S. entity is required to add up the value of all financial service transactions engaged in by itself and each of its consolidated subsidiaries.

The scope of U.S. financial service providers is broad and includes U.S. entities engaging in the following industries:

- Financial investment activities, including investment advisers and managers;
- Investment funds, trusts, and other financial vehicles (including mutual funds, pension funds, real estate investment trusts and other financial vehicles); and
- Securities and commodity contracts intermediation and brokerage (including security and commodity futures brokers, dealers, exchanges, traders, underwriters, investment bankers and providers of securities custody services).

The \$3 million threshold applies to a broad range of transactions, including the following:

- Financial advisory and custody services;
- Financial management services (including fees for managing foreign commodity pools, mutual funds, hedge funds, trusts and fees for such services that are charged to non-U.S. persons and entities);
- Underwriting and private placement services; and
- Credit-related services.

Filing Deadlines

The BEA requests that U.S. financial service providers complete the BE-180 by **October 1, 2015** as listed on the form. However, if a U.S. financial service provider was not notified of the BE-180 survey by the BEA and does not have a BEA identification number, an automatic extension date of **November 1, 2015** applies. If a U.S. financial service provider was contacted by the BEA, the following extension dates apply as noted based on the respondent's BEA number: (i) for BE-180 numbers below 140012490, the automatic extension date is November 1, 2015; and (ii) for BE-180 numbers above 140012490, the automatic extension date is December 1, 2015.

Respondents contacted by the BEA regarding the BE-180 can request extensions of up to 30 days beyond the automatic extensions by phone or e-mail by November 1, 2015. Respondents not contacted by the BEA regarding the BE-180 can request extensions of up to 60 days beyond the automatic extension by following the **instructions here** by November 1, 2015.

Penalties

Similar to the BE-10 and BE-13 penalties, whoever fails to report as required by the BEA is subject to a civil penalty of not less than \$2,500, and not more than \$32,500, and to injunctive relief commanding such person to comply, or both. Whoever willfully fails to report is subject to a fine of not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both. Any officer, director, employee, or agent of any corporation who knowingly participates in such violations, upon conviction, may be punished by a like fine, imprisonment or both.

More Information

More information regarding the Form BE-180, including Frequently Asked Questions and an online tutorial, can be **found here** or at www.bea.gov.

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