

Investment Management Alert

September 17, 2015

New BE-180 Survey of Cross-Border Financial Services Transactions Due in Fourth Quarter

U.S. persons who provide or receive financial services, such as investment advisory, fund management or brokerage services,¹ to or from foreign persons must file Form BE-180 with the Bureau of Economic Analysis (BEA) if the amount paid for those services or the amount received for those services exceeded \$3 million in 2014.² Form BE-180 is a benchmark survey with a five-year cycle that will recur in 2020, but the BEA may use the responses to Form BE-180 as a basis to require filers to complete additional forms in the interim.³

The BEA encourages filers to file Form BE-180 by October 1, 2015. If the BEA notified the filer of its obligation to file, the filer must file by either November 1, 2015, or December 1, 2015, after giving effect to automatic extensions,⁴ subject to a further extension of 30 days if a request is filed by November 1. If the BEA did not notify the filer of its obligation to file, the person must file by November 1, 2015, after giving effect to automatic extensions, subject to a further extension of 60 days if a request is filed by November 1, 2015.

Official BE-180 Report forms, instructions and answers to frequently asked questions can be found in the BE-180 resource center, available at <http://www.bea.gov/ssb/be180/>.

¹ The BEA defines financial services to include the following types of financial services transactions (whether sales or purchases) between U.S. financial services companies and foreign persons: (i) brokerage services related to equity transactions and other brokerage services; (ii) underwriting and private placement services; (iii) financial management services; (iv) credit-related services (except credit card services); (v) credit card services; (vi) financial advisory and custody services; (vii) securities lending services; (viii) electronic funds transfer services; and (ix) other financial services. Filers should not report the following types of transactions in their BE-180 Reports: (i) stock quotation and financial information services; (ii) insurance premiums and losses, and commissions on insurance; (iii) annuity purchases and payments to annuitants; (iv) pension fund contributions and benefits; (v) interest and dividend receipts and payments; (vi) premiums and other proceeds from writing (selling) options, forwards, futures and swaps; (vii) earnings of principals from buying and selling (including dealing, trading, holding or arbitrage) of financial instruments; (viii) foreign currency exchange transactions; and (ix) bond transactions.

² The threshold is computed separately for purchases and for sales of financial services, and, if only one threshold is crossed, only that relevant portion of the form must be completed. These thresholds are applied to financial services transactions with foreign persons by all parts of the consolidated U.S. enterprise that are financial services providers or intermediaries. In determining whether reporting is mandatory, a Reporter may base its determination on the judgment of knowledgeable individuals in the organization who can identify reportable transactions with a reasonable degree of certainty, without conducting a detailed records search.

³ For example, U.S. financial service providers may be required to file Form BE-185 on a quarterly basis if requested by the BEA.

⁴ The above dates include the effect of automatic extensions. If the filer was notified by the BEA and has an identification number below 140012490, the form is due by November 1, 2015. If the filer was notified by the BEA and has an identification number above 140012490, the form is due by December 1, 2015.

Content of Report

Form BE-180 collects data regarding the fees paid or received in 2014 due to sales and/or purchases of each of the covered types of financial services transactions. The information is subcategorized by country, by relationship to the foreign counterparty (foreign affiliate, foreign parent group or unaffiliated) and by the type of financial service reported. Fees are defined broadly and include incentive fees and allocations received by investment advisers to foreign entities.

Filing and Penalties

The BEA allows filers to mail or fax in their BE-180 Reports to the U.S. Department of Commerce or, alternatively, file their BE-180 Report electronically on the BEA website.

The failure of a Reporter to fulfill its reporting obligation could result in a civil penalty or injunctive relief commanding such Reporter to comply, or both. The BEA may assess civil penalties ranging from \$2,500 to \$32,500. However, whoever willfully fails to report could be fined up to an additional \$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 corporate Reporter who knowingly participates in such violations, upon conviction, may be punished by a like fine, imprisonment or both.

Confidentiality

Information submitted to the BEA pursuant to the BE-180 Survey may be used for only analytical and statistical purposes. Without a Reporter's prior written permission, the information filed in any BE-180 Report cannot be presented in a manner that allows it to be individually identified. Furthermore, any response to the Form BE-180 cannot be used for purposes of taxation, investigation or regulation.

Contact Information

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