

Investment Management Alert

February 8, 2017

Foreign Security Ownership Reporting on Form SHC and Changes to BEA Reporting

TIC Form SHC

The Department of the Treasury is conducting its mandatory (every five years) survey of foreign securities ownership by U.S. residents¹ as of December 31, 2016, on its Treasury International Capital System (TIC) Form SHC.² Respondents must file Form SHC through the Federal Reserve Bank of New York (FRBNY) by March 3, 2017.

TIC Form SHC Layout and Who Must File

TIC Form SHC consists of three schedules. Schedule 1 requires certain identifying and summary information and must be filed by (i) any person who receives a letter from the FRBNY and (ii) any person who is required to report on Schedule 2 or Schedule 3 even if that person did not receive a letter from the FRBNY. Schedule 2 requires U.S. resident end-investors³ and U.S. resident custodians to report each reportable⁴ foreign⁵ security that they directly hold and manage the safekeeping of, or hold through a foreign custodian, if the fair value of those reportable foreign securities⁶ is equal to or exceeds \$200 million as of December 31, 2016. U.S. resident end-investors that hold their reportable foreign securities through unaffiliated U.S. resident custodians would not be required to report those securities on

¹ TIC defines a "U.S. resident" as "[a]ny individual, corporation, or other organization located in the United States, including branches, subsidiaries, and affiliates of foreign entities located in the United States. The residency of an entity is determined by where a corporation or subsidiary is incorporated and where a branch is licensed, not by the physical office of the counterparty." TIC Glossary (June 2014), <http://ticdata.treasury.gov/Publish/ticglossary-june2014.pdf>.

² Requirements to file other Treasury forms, such as TIC-S, TIC SLT and TIC SHL, continue to apply.

³ An end-investor is an organization that either invests in securities on its own or on behalf of others, such as investment managers. A U.S. manager is required to report for the other U.S. parts of its organization, including the U.S. funds that it manages.

⁴ The only securities that must be reported are foreign securities (i.e., those issued by entities organized outside of the United States of America or by certain international organizations). Reportable foreign securities consist of equity interests, short-term debt securities, long-term debt securities and asset-backed securities other than direct investments. Derivative contracts, such as futures, forwards, swaps, options and warrants, and "direct investments" (i.e., ownership interests of 10 percent or more of the voting securities), are not reportable securities in Form TIC SHC. Limited partner interests in a limited partnership are not deemed to be "direct investments" because such interests lack voting rights.

⁵ American depository receipts are "looked through" (i.e., they should be attributed to the country of residence of the issuer of the security underlying the depository receipt/share). Also, neither the country in which the security is traded or issued, nor the currency in which it is denominated, impacts whether the security is a foreign security. If either the issuer or holder of securities within a "direct investment" relationship is a depository institution, securities firm, bank holding company or financial holding company, then intercompany holdings are not "direct investments" and thus are reportable on Form SHC.

⁶ As opposed to the case for Form SLT, securities are not excluded from reporting solely because they are held by a U.S. custodian.

Schedule 2. Schedule 3 requires U.S. resident end-investors or custodians to report summary amounts of reportable foreign securities entrusted to an unaffiliated U.S. custodian if the fair value amount of foreign reportable securities entrusted to that custodian equals or exceeds \$200 million as of December 31, 2016.

U.S.-organized investment advisers are required to file one consolidated report relating to the holdings of all U.S. funds they manage or sponsor, and U.S.-resident managed accounts that they manage that own foreign reportable securities. Therefore, investment advisers must use the consolidated amount of reportable securities as measured across their U.S. fund clients for determining whether they satisfy the \$200 million threshold for Schedules 2 and 3. If the investment adviser is not organized in the United States, each U.S.-organized fund would need to be separately analyzed to determine whether it equals or exceeds the \$200 million reporting threshold for Schedules 2 and 3.

Many U.S. investment advisers that advise funds organized in a master-feeder structure will be required to report foreign master fund interests owned by a domestic feeder fund. Other examples of securities that investment advisers may be required to report include (i) ownership of reportable foreign securities held by U.S.-organized funds through non-U.S. custodians on Schedule 2, (ii) reportable foreign securities acquired in a private placement that an investment adviser holds on behalf of its clients in book entry or certificated form that are transferrable only with the consent of the issuer on Schedule 2 and (iii) foreign reportable securities held by U.S. fund clients reported on Schedule 3 by a U.S. custodian. Reportable foreign securities owned by a master fund organized outside of the United States would not have to be reported even if a domestic feeder fund invests in the master fund, although the domestic feeder's investment in the foreign master fund may be reportable.

Persons who are required to file Form SHC should begin completing their Form SHC in preparation for the March 3, 2017, deadline and ensure that they have the requisite 10-digit Reporter Identification Number assigned by the FRBNY as soon as possible.⁷ Further information regarding Form SHC, the TIC Form SHC itself and the instructions are available [here](#), and other resources are available at the Form SHC reporting center [here](#). Persons reporting fewer than 100 positions on Schedule 2 may file with the FRBNY on paper. Persons reporting 100 or more positions on Schedule 2 must submit their reports electronically through the [Federal Reserve Reporting Central System](#).

BEA Changes

The Department of Commerce's Bureau of Economic Analysis (BEA) recently announced the effectiveness of a change to its forms for reporting foreign direct investment in the United States and U.S. direct investment abroad (the "Direct Investment Surveys"). Starting with quarterly and other reports due in 2017, persons reporting on the Direct Investment Surveys are no longer required to report data

⁷ If you do not know the Reporter Identification Number for your entity, contact FRBNY staff at 212-720-6300 or 646-720-6300.

regarding private funds⁸ or holding companies,⁹ unless the private fund or holding company directly or indirectly holds a direct investment in an “operating company” (i.e., a company that is not a private fund or a holding company). To determine whether a private fund is required to be reported, consult either the flowchart for analysis of U.S. investment in foreign private funds (available [here](#)) or the flowchart for foreign investment in U.S. private funds (available [here](#)), as applicable.

⁸ “Private funds” are defined by the BEA as an issuer that would be required to register as an investment company but for Section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940, as amended.

⁹ A “holding company” is a company whose primary activity is holding the securities or financial assets of other companies.

Contact Information

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