

KIRKLAND ALERT

October 2015

New BEA Investment Survey Reporting Requirements for Financial Services Transactions

The U.S. Department of Commerce, Bureau of Economic Analysis (“BEA”), has announced new reporting requirements for a five-year “benchmark” survey of financial services transactions between U.S. financial services providers and non-U.S. persons. For the first time, even if an entity has not been contacted by the BEA, all U.S. financial services providers that at any time during fiscal year 2014 had sales or purchases of financial services to non-U.S. persons in excess of \$3 million are required to file a Form BE-180. The general filing deadline for entities not specifically contacted already by the BEA is November 1, 2015.¹ The BEA will automatically grant extension requests of up to an additional 30 days if a request is submitted by November 1.

The BE-180 Survey is intended to gather statistics on the volume and nature of international financial services transactions. Reportable transactions include fees, commissions and other charges by U.S. managers that have the authority to direct the use or investment of foreign funds or other assets, such as private equity funds, hedge funds and mutual funds. U.S. investment fund management fees paid to foreign advisers or managers also should be evaluated for reporting requirements. Financial services include “financial management services,” and reportable transactions include “fee income from (to) foreign persons for managing or administering financial portfolios, such as cash, securities, futures, and other financial instruments or assets.” For example, a U.S. general partner that receives fees for financial management services from its Cayman Island fund should evaluate its BE-180 reporting obligations.

If BE-180 reporting is required, a U.S. entity may file either: (i) a single BE-180 report covering combined (total) financial services transactions (purchases and sales) of all its subsidiaries that are financial services providers or intermediaries; or (ii) separate reports for its separately organized financial services subsidiaries and parts. However, for separate reports, the \$3 million reporting threshold is to be evaluated with reference to the total transactions of the consolidated U.S. enterprise.

The BEA has the authority to impose civil penalties for a failure to comply with the BE-180 filing requirements, and willful violations may be subject to criminal penalties.

Additional information, including forms and instructions, for the BE-180 is also available at the BEA’s website: <http://www.bea.gov/ssb/be180/>.

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¹ The BEA extended its original October 1, 2015, deadline.

If you have any questions about the matters addressed in this *Kirkland Alert*, please contact the following Kirkland authors or your regular Kirkland contact.

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