

BEA Reporting Requirements for US Financial Services Providers

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Authors: [Richard Burke](#), [Ernie Patrikis](#), [Kirstina Zissis](#)

The US Department of Commerce Bureau of Economic Analysis (“BEA”) is conducting its 2014 Benchmark Survey of Financial Services Transactions between US Financial Services Providers and Foreign Persons (Form BE-180). This survey, which is taken every five years, collects data which will be used by BEA to estimate the financial services component of the US International Transactions Account and other economic accounts compiled by BEA. BEA requires a BE-180 report from all US financial services providers or intermediaries that had been contacted by BEA or had financial sales transactions with foreign persons in excess of \$3 million during their 2014 fiscal year. The report must be completed by persons subject to the reporting requirements regardless of whether they have been contacted by BEA. Reports are due at the earliest by November 1, 2015, and requests for extensions also are due by that date.

Who must file the report?

A “financial services provider” is a company listed in Sector 55 of the North American Industry Classification System and includes the following: depository credit intermediation and related activities (e.g., commercial banks, bank holding companies, savings institutions, check cashing and credit card issuing); non-depository credit intermediation (e.g., credit card issuers, sales finance, and consumer lenders); securities, commodity contracts, and other financial investments and related activities (e.g., security and commodity futures brokers, dealers, exchanges, traders, underwriters, investment bankers, and providers of securities custody services); insurance carriers, agents and brokers; investment advisors and managers and funds, trusts, and other financial vehicles (e.g. mutual funds, pension funds, REITs, investors, and stock quotation services).

A filer may request an extension. Filing a BE-180 report is mandatory for US financial service providers or intermediaries with financial services transactions (either sales or purchases) directly with foreign persons in excess of \$3 million during their 2014 fiscal year on an accrual basis. If a service provider receives notice from the BEA and has transactions that did not exceed the \$3 million threshold, a truncated report must be filed. If the BEA did not notify the financial service provider and if the provider’s sales or purchases were below the \$3 million threshold, the report is voluntary and the provider may provide an estimate of the total for each type of service. If entities that receive a BE-180 are not subject to the mandatory requirements, and choose not to voluntarily report data, they must file an exemption claim.

What transactions must be reported?

The term “financial services” includes the following transactions (sales or purchases) between U.S. financial companies and foreign persons: brokerage services related to equity transactions; other brokerage services; underwriting and private placement services related to equity and debt; financial management services (e.g., financial advisory services, investment advice, commodity trading advisory services,; credit-related services; securities lending, electronic transfers of funds, credit card services; custody services; securities lending services; electronic funds transfer services; and other financial services. The General Instructions also include a listing of excluded transactions.

What must be reported?

Transactions with both affiliates and unaffiliated persons must be reported

What are the consolidated reporting requirements?

A U.S. organization may file a single Form BE-180 covering combined financial services transactions of all its subsidiaries, and parts that are financial services providers or intermediaries. In the alternative, it may file separate reports for its separately organized financial services subsidiaries and parts. However, regardless of the number of subsidiaries or parts of the enterprise filing separate BE-180 forms, the reporting criteria must be applied with reference to the total transactions of the consolidated U.S. enterprise. If the organization is planning to file separate reports, it must contact the Bureau.

What year is covered by the report?

The report covers the financial services transactions engaged in in its fiscal year ending in 2014.

When must the report be filed

Financial services providers must file the BE-180 report no later than November 1, 2015 if the entity was notified of the BE-180 survey by BEA and has a BE-180 identification number below 140012490 or if the entity was not notified by BEA. If the entity has a BEA identification number above 140012490, and was notified by BEA, the BE-report is due no later than December 1, 2015. If more time is required, parties should file extension requests for a 30-day extension by November 1, 2015.

What are the penalties for non-compliance?

Persons who fail to report may be subject to a civil penalty of not less than \$2,500, and not more than \$32,500, and to injunctive relief, or both. Persons who willfully fail to report may be fined 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.

White & Case LLP
1155 Avenue of the Americas
New York, New York 10036-2787
United States

T +1 212 819 8200

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