

# Financial Service Providers Must File Foreign Financial Services Transactions With BEA Before October 30

*Venture capital companies and private equity funds may be obligated or risk penalties*

By **Doreen M. Edelman** and **Abbey E. Baker**

All U.S. persons or businesses that meet the definition of a "financial services provider" and conducted financial services transactions with foreign persons during the 2019 fiscal year must file the survey known as the **BE-180** with the U.S. Department of Commerce's Bureau of Economic Analysis (BEA) via BEA's **eFile** by October 30, 2020 (extensions are available).

Failing to file exposes companies to civil or criminal penalties including fines of up to \$50,000. Criminal penalties for willful failure to file include fines of up to \$10,000 and imprisonment of up to one year for individuals who knowingly participate in a violation. While BEA historically has not imposed penalties, it may become more aggressive in penalizing companies for not filing.

BEA uses the BE-180 surveys to produce statistics on the scale and effects of financial services transactions on the U.S. economy and to inform U.S. commercial policy on trade in financial services.

"Financial services providers" is broadly defined. The term includes businesses primarily engaged in transactions involving the creation, liquidation, or change in ownership of financial assets and/or in facilitating financial transactions. In addition to covering depository credit intermediation, brokerage services, securities and commodity exchanges, it also applies to:

- Businesses primarily acting as principals in buying or selling of financial contracts (such as venture capital companies)
- Businesses primarily engaged in managing portfolio assets (such as private equity funding management)
- Fintech companies (potentially)

These companies have a reporting obligation if they have conducted financial services transactions (including sales or purchases) of \$500 or more with "foreign persons" during the 2019 fiscal year. The term "foreign persons" is also defined broadly as an individual, business entity, or government agency resident outside the United States or subject to the jurisdiction of a country other than the United States.

Financial services transactions that qualify include:

- Brokerage services related to equity transactions
- Other brokerage services
- Underwriting and private placement services related to equity transactions
- Underwriting and private placement services related to debt transactions
- Financial management services
- Credit-related services, except credit card services
- Credit card services
- Financial advisory and custody services
- Securities lending services
- Electronic funds transfer services

- Other financial services (a miscellaneous category which includes asset pricing services, security exchange listing fees, demand deposit fees, securities rating services, and various other specific financial services transactions)

Both sales to and purchases from a foreign person are covered transactions that trigger a reporting requirement.

If you have any questions or need assistance with a filing, please contact **Doreen M. Edelman**, Chair, **Global Trade & Policy**; or **Abbey E. Baker**, Counsel, **Global Trade & Policy**.

## Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

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