

Bureau of Economic Analysis and Treasury International Capital Filing Services

The Bureau of Economic Analysis ("BEA") is a branch of the US Department of Commerce that collects statistical information about the American economy that is related to critical decisions about interest rates, trade policy, taxes, spending, hiring and investing, among others. Similarly, the Treasury International Capital ("TIC") System is a data collection arm of the US Department of the Treasury ("DoT") that measures the flow of portfolio capital into and out of the US and the resultant positions between US and foreign residents.

These organisations issue regular surveys, collecting information for the analysis and reporting of economic data. For US persons and businesses that are required to complete these periodic surveys, the BEA and TIC filing process may be an administrative burden, however, failure to satisfy these reporting requirements may lead to significant civil and criminal penalties, including monetary fines and, in some circumstances, imprisonment. Outsourcing these filing tasks to an experienced, third-party service provider can alleviate this bureaucratic pressure.

BEA Survey Filings

The BEA conducts seven mandatory surveys to collect information on direct investment from enterprises doing business in the US, as authorised by the International Investment and Trade in Services Survey Act. These surveys consist of quarterly, annual and benchmark surveys of outward and inward direct investment and a survey of new inward direct investment. Information is derived from respondent entity disclosures on their enterprise demographics, existing financial information, and forward-looking estimates of spending.

The BEA filing requirement is applicable to:

- All US persons that own, directly or indirectly, 10% or more of the voting securities of an incorporated

foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise; and / or

- All US business enterprises in which a foreign person (in the broad legal sense, including a company) owns, directly or indirectly, 10% or more of the voting securities of an incorporated US business enterprise or an equivalent interest of an unincorporated US business enterprise.

These requirements may also apply to some of the more commonly used structures for onshore and offshore funds. The BEA considers a company to be US or foreign based on where it is incorporated or organised, regardless of the location of their operations or nationality of their shareholders. Considerations for investment managers include:

- US fund managers or their US affiliates may be required to report non-US master funds and possibly other non-US funds as foreign affiliates;
 - US organised feeder funds may be required to report on ownership of non-US master funds;
 - Whether or not a US management company, an affiliated US special purpose vehicle, or a US organised fund owns or controls a foreign entity's voting securities is heavily dependent on the particular ownership structure of each entity in a fund complex; and
 - US management companies, affiliated US special purpose vehicles or US organised funds may be required to report ownership of a foreign entity held in a master fund's portfolio.
- US non-financial holding companies (for themselves and for all of their US non-financial branches and subsidiaries);
 - All other non-financial US-resident entities that are not more than 50% owned by another US-resident entity;
 - All US-resident entities that have derivatives contracts;
 - All US nominees selling and purchasing long-term securities on their own behalf, or on behalf of customers; and / or
 - All US nominees engaged in cross-border holding of long-term securities.

In addition, the annual and benchmark report forms SHC and SHCA should be filed by US-resident investors in foreign securities, and SHL and SHLA forms should be filed by US-resident issuers of securities held by foreign persons.

TIC Survey Filings

The TIC reporting system is a set of periodic statistical surveys designed by the DoT to collect data on cross-border investment activity in order to document the flow of money into and out of the US through purchases and sales of securities and other financial instruments. These monthly, quarterly and benchmark surveys allow the DoT to receive timely and reliable information on the levels and changes in US international portfolio capital positions. They are used for the preparation of official US Balance of Payments data and for other statistical reporting.

All US-resident entities, custodians, issuers, branches and subsidiaries, nominees, affiliates and some types of investors are required to file a TIC report. However, which form it is necessary to complete depends on the type of entity and to what extent it can be classified as exempt. Generally, TIC filing requirements are applicable to the following US parties by law:

- Banks, bank holding companies, financial holding companies, savings and loan holding companies and intermediate holding companies;
- Securities brokers and dealers, insurance companies and pension funds;
- All other US-resident financial institutions;

Our Services

As domestic and overseas clients continue to look for efficiencies and to renew their focus on core business activities, tedious and time-consuming tasks such as BEA and TIC filings can create unnecessary operational burdens. Through our Delaware office, and as a complement to our broader suite of reporting solutions, the Maples Group provides comprehensive yet cost-effective survey respondent services which include gathering, collating, reviewing and submitting required data in a timely manner. Our team takes a high-touch approach and strives to act as an extension of clients' in-house teams to alleviate administrative pressure.

To enable us to do this, our filing team is introduced to the management or relevant stakeholders of the respondent party in order for us to agree the necessary workflow and timeline for the collection of data, including the review and preparation of the required forms. Once such processes have been agreed, we continue to work with the respondent party to complete the filings. This removes our clients from the process to the extent possible, allowing them to focus on their core competencies and singular goal of investing and generating returns for their investors.

The Maples Group is a market leader in the provision of fiduciary and formation and management services to investment funds, structured finance vehicles and corporate entities established in the Americas, Asia, Europe and the Middle East. We bring in-depth knowledge of a wide range of investment vehicles and structures, including regulatory and investor

requirements. This expertise, backed by a robust institutional-grade infrastructure and highly responsive approach to client service, ensures that clients are comprehensively supported in navigating the complexities of today's global business landscape and that the necessary standards of corporate governance are adhered to.

For further information on our services, please contact:

Edward L. Truitt Jr.

+1 302 338 9129

edward.truitt@maples.com

James Lawler

+1 302 340 9985

james.lawler@maples.com