



## U.S. Commerce Department Revives Previously Dormant Form BE-13 (Foreign Direct Investment Reporting Requirement)

### *Reports Apply Retroactively to 2014 Activity*

The U.S. Department of Commerce's Bureau of Economic Analysis (BEA) has reinstated a previously dormant reporting requirement via Form BE-13 for certain new foreign direct investment in the United States. The reporting requirement applies retroactively. Qualifying investment transactions that occurred during 2014 prior to Nov. 26, 2014, must be reported by Jan. 12, 2015. Qualifying investment transactions that occurred on or after Nov. 26, 2014, are required to be reported within 45 days of the qualifying transaction.

U.S. companies required to file Form BE-13 (or Form BE-13 Claim for Exemption) may file a request for an extension with BEA. Unlike BEA reports relating to foreign investment, the Form BE-13 is mandatory for all U.S. businesses subject to the reporting requirement, regardless of whether the U.S. businesses have been specifically contacted by BEA.

### **1) Description of Form BE-13 Filing Requirement**

The purpose of Form BE-13 is to capture new investment transactions in which:

- > A foreign direct investment in the United States relationship is created; or
- > An existing U.S. company in whom a foreign company owns directly or indirectly 10 percent or more of the voting securities:
  - Establishes a new legal entity;
  - Expands its U.S. operations; or

- Acquires a U.S. business enterprise.

Failure to timely report Form BE-13 may trigger civil and/or criminal penalties.

## 2) How to Comply with the New Measures

Any U.S. company involved in, or the recipient of, foreign direct investment activities should review the Form BE-13 reporting requirements and should assess, with counsel, whether new investment activities that occurred in 2014 constitute activity that must be reported to the BEA via Form BE-13. Further, U.S. companies with current or proposed foreign direct investment should familiarize themselves with the BEA reporting requirements, generally, and work with counsel to determine whether any other BEA reporting requirements may be triggered by current or future foreign direct investment activity.

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