

**COMMERCE DEPARTMENT CONDUCTS FIVE-YEAR BENCHMARK SURVEY  
OF FOREIGN DIRECT INVESTMENT; RESPONSES BY U.S. BUSINESSES  
ARE MANDATORY**

**Kent Bressie and Robert Friedman**

Every five years, the U.S. Department of Commerce's Bureau of Economic Analysis ("BEA") conducts a five-year benchmark survey of foreign direct investment in the United States. Participation in this survey is **mandatory** for U.S. businesses in which a foreign entity or person holds (whether directly or indirectly) a 10-percent-or-greater voting interest at the end of the U.S. business's 2017 fiscal year. If submitted on paper, the survey response is due by May 31, 2018. If submitted electronically, the survey response is due by June 30, 2018.

The survey has three different versions: Forms BE-12A, BE-12B, and BE-12C. The choice of form depends on the size of the U.S. business and its percentage of foreign ownership. Each version of the survey requires identification of foreign investors, direct and indirect parents of those investors, major products and services provided by the U.S. business, U.S. business revenue and balance sheet information, and other U.S. business financial and operating data. (In some cases, a U.S. business lacking the requisite foreign direct investment may still be contacted by BEA, in which case the U.S. business will need to file a BE-12 Claim for Not Filing.) Survey responses are confidential and used only for statistical purposes.

A U.S. business is required to submit a survey response, regardless of whether or not contacted by BEA. The BEA may impose civil and criminal penalties on a U.S. business that fails to submit a survey response.

\* \* \* \* \*

For more information regarding the BEA benchmark survey or HWG's foreign investment and national security practice, please contact **Kent Bressie** at +1 202 730 1337 or kbressie@hwglaw.com or **Robert Friedman** at +1 202 730 1335 or rfriedman@hwglaw.com.

*This client advisory is not intended to convey legal advice. It is circulated to HWG clients and friends as a convenience and is not intended to reflect or create an attorney-client relationship as to its subject matter.*