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## Reminder: Mandatory filing for foreign-owned companies in the U.S. due May 31, 2018

By Alexandra Lopez-Casero and Carolyn Lowry

The deadline is approaching for U.S. entities in which foreign entities or individuals have a voting ownership interest of 10 percent or more to file the 2017 BE-12 Benchmark Survey of Foreign Direct Investment in the United States. The BE-12 survey must be submitted to the U.S. Department of Commerce's Bureau of Economic Analysis (BEA). The BEA uses the data gathered through the benchmark survey to produce statistics on foreign direct investment in the United States.

There are four different report forms: Form BE-12A, Form BE-12B, Form BE-12C and the BE-12 Claim for Not Filing. Which form needs to be filed depends on the size of the U.S. business and the percentage of foreign ownership.

As a general rule, any U.S. business in which a foreign entity or person holds, directly or indirectly, 10 percent or more of the U.S. business' voting interests at any time during 2017 or an equivalent share in an unincorporated enterprise must file a BE-12 form. There is no minimum assets or revenue threshold.

The benchmark survey covers the U.S. business's fiscal year ending in 2017 and is due on May 31, 2018 (or June 30, 2018, for businesses using BEA's eFile system). All entities subject to the reporting requirements must file, even if they are not contacted by the BEA.

Federal law protects the confidentiality of the responses and provides that the data cannot be used for purposes of taxation, investigation or regulation. The BEA may impose civil and/or criminal penalties for not filing.

BEA has indicated that it is willing to grant filing extensions, but the extension must be requested prior to the May 31 deadline.

The BE-12 survey forms can be found [here](#).

If you have questions or need assistance completing the BE-12 survey forms, feel free to contact Alexandra Lopez-Casero, Carolyn Lowry or your Nixon Peabody relationship attorney.

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