

Supporting Statement for the BE-13,  
Survey of New Foreign Direct Investment in the United States  
OMB Control Number 0608-0035

A. Justification

**1. Explain the circumstances that make the collection of information necessary.**

The BE-13 Survey of New Foreign Direct Investment in the United States is necessary to obtain comprehensive initial data concerning new foreign direct investment in the United States. The survey is mandatory and is conducted under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101-3108, hereinafter “the Act.”

Section 4(a) of the Act requires that the President shall, to the extent he deems necessary and feasible—

- (1) conduct a regular data collection program to secure current information on international capital flows and other information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States;
- (2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment and trade in services which may have significant implications for the economic welfare and national security of the United States.

In Section 3 of Executive Order 11961, the President delegated the responsibility for performing functions under the Act concerning direct investment to the Secretary of Commerce, who has redelegated it to the Bureau of Economic Analysis (BEA). The implementing regulations for the direct investment surveys conducted under the Act may be found in 15 CFR Part 801.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

The BE-13 survey collects information on the cost of new foreign direct investment (except for investment in certain private funds) in the United States, limited financial and operating data for the U.S. business enterprises established, acquired, or expanded, and identifying information about the U.S. business enterprise and its foreign owner(s). U.S. business enterprises acquired by a foreign parent are only required to file the survey once. Foreign-owned U.S. business enterprises that are newly established or are undergoing an expansion will be required to file an initial report and revise their expected costs each year until the establishment or expansion is complete. BEA will notify the U.S. business enterprise when updates are required. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person of 10 percent or more of the voting securities of an incorporated U.S.

business enterprise, or an equivalent interest of an unincorporated U.S. business enterprise, including a branch.

These data complement data from BEA's other surveys of foreign direct investment in the United States, namely the BE-605, a quarterly survey that collects transactions and positions of U.S. affiliates with their affiliated foreign groups, and the BE-12 (benchmark) and BE-15 (annual) surveys, which provide data on the operations of U.S. affiliates.

Some specific uses of the data to be collected are discussed in greater detail below.

(a) Compile and improve the U.S. economic accounts:

Data from the BE-13 survey will identify new U.S. affiliates that should be included in BEA's estimates of foreign direct investment in the United States. The information is needed to update data on the universe of U.S. affiliates to ensure that it is complete, and to determine whether the new affiliates meet reporting criteria for related benchmark, annual, and quarterly surveys of foreign direct investment conducted by BEA. The information is also used to improve the accuracy of universe estimates derived from BEA's annual and quarterly surveys of foreign direct investment.

(b) Support U.S. Government policy on direct investment:

The data are used by several U.S. Government agencies, including the Office of the U.S. Trade Representative, the International Trade Administration of the Commerce Department, the Departments of Treasury and State, the Council of Economic Advisers, and the Federal Reserve Board to support U.S. international economic policy. The International Trade Administration's SelectUSA office uses the data in advising foreign investors seeking to invest in the United States. The Treasury Department's Committee on Foreign Investment in the United States uses the data as background in its reports to Congress. Without this survey, current data on the size, types, and financial and operating characteristics of new foreign direct investment in the United States would not be available.

Bilateral investment treaties (BITs) are negotiated with interested countries to facilitate and protect U.S. investment interests. During BIT negotiations, data from this and related surveys provide important, up-to-date information on the level and impact of direct investment on the U.S. economy.

The United States is a signatory to regional and multilateral commercial agreements that cover direct investment as well as cross-border trade, and the data from this and related surveys provide information that can be used both during the negotiations and as an aid in monitoring the resulting agreements. For example, investment issues are covered both by the General Agreement on Trade in Services, which is the principal World Trade Organization agreement on trade in services, and by the North American Free Trade Agreement among the United States, Canada, and Mexico.

(c) Other Government uses:

Representatives of many State and local governments take steps to attract new foreign direct investment to their localities. To make informed policy decisions concerning such investment, it is essential that government entities, including the U.S. Government, have the means to measure foreign direct investment in the United States, monitor changes in it, and assess its economic impact. Data from the survey are intended to be general purpose statistics on foreign direct investment that are readily available to answer any number of research and policy questions when they arise.

(d) Non-government uses:

International organizations, foreign embassies, and private researchers also use data from the BE-13 survey in assessing the impact of foreign direct investment on the U.S. economy. International organizations that regularly make use of BEA data on foreign direct investment include the United Nations, International Monetary Fund, Organisation for Economic Co-operation and Development, and World Bank. Numerous private researchers also use the data.

The Section 515 Information Quality Guidelines apply to this information. The information is collected according to documented procedures in a manner that reflects standard practices accepted by the relevant economic/statistical communities. BEA conducts a thorough review of the survey input data using sound statistical techniques to ensure that the quality of the data is high before the final estimates are released. The data are collected and reviewed according to documented procedures and best practice standards and on-going review by the appropriate supervisor. The quality of the data are validated using a battery of edit checks to detect potential errors and to otherwise ensure that the data are accurate, reliable, and relevant. Statistics are routinely revised as more complete source data become available. The collection and use of this information complies with all applicable information quality guidelines, i.e., those of the Department of Commerce, the Office of Management and Budget (OMB), and BEA.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

BEA will offer electronic filing through its eFile system for use in reporting on the BE-13 survey forms. The eFile system enables respondents to enter the required data, save their inputs, and submit the survey securely to BEA.

In addition, BEA provides links to all its survey forms and reporting instructions on its Web site ([www.bea.gov](http://www.bea.gov)). These are fillable forms that can be downloaded, printed, and submitted via fax or mail.

The data from the new foreign direct investment survey are published and analyzed annually in BEA's online journal, the *Survey of Current Business*. All of the data tabulated from the BE-13 survey that are released to the public and analyses of the data published in the *Survey* are available on the BEA Web site.

**4. Describe efforts to identify duplication.**

Other data collected by other Government agencies and segregated as being for foreign-owned U.S. companies are not comparable to the data collected by BEA. For example, although the Securities and Exchange Commission (SEC) maintains information on the nationality of major stockholders in publicly traded U.S. companies, most of the foreign-owned U.S. companies in BEA's reporting universe are not publicly traded. For those that are publicly traded, the data available from the SEC are not in the form or detail required by BEA. For example, data reported to the SEC are on a worldwide consolidated basis. In contrast, data collected in the BE-13 survey are on a domestic (U.S.) single enterprise basis, and cover only the new U.S. domestic operation.

The Internal Revenue Service collects information on foreign-owned U.S. companies, but it covers only "foreign-controlled" companies—those owned at least 50 percent by foreigners. BEA's data are based on a 10 percent ownership criterion—the current international standard for defining direct investment. Consolidation rules also differ significantly.

Beginning in 2017, BEA will instruct reporters of investments in certain private funds to report with the Treasury International Capital system and not in BEA's surveys of foreign direct investment in the United States. Prior to this change, certain private funds were required to report on both the BEA and TIC surveys. BEA, in conjunction with the Treasury Department, initiated this change because these particular investments displayed the characteristics of portfolio investment (specifically, investors do not intend to control or influence the management of an operating company) rather than direct investment (that is, ownership by one person of 10 percent or more of the voting interest of a business enterprise).

BEA has examined information on foreign direct investment available from these and other agencies and, because the information differs in scope and purpose from that collected by BEA, has not identified significant duplication.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

For the few small businesses that are foreign-owned, BEA has attempted to keep burden to a minimum by asking only those questions that are considered essential and for which answers are likely to be readily available from the existing records of the business. The amount of information required to be reported by each U.S. business enterprise is determined by the type and cost of the transaction. U.S. business enterprises acquired by a foreign parent are only required to file the survey once. Foreign-owned U.S. business enterprises that are newly established or are undergoing expansion will be required to file an initial report and then will update their expected costs each year until the establishment or expansion is complete. For those that do not meet the \$3 million filing threshold, the U.S. business enterprise will only be required to report selected items on the BE-13 Claim for Exemption.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The objectives presented in item A.2. could not be accomplished if the survey were not conducted. Also, not conducting the survey would affect BEA's ability to maintain a complete and up-to-date list of foreign-owned U.S. business enterprises; this in turn, would have an

adverse impact on the quality of all data published by BEA on foreign direct investment in the United States.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

No aspects of the proposed BE-13 data collection require a special justification.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

On July 1, 2016 BEA published a notice of proposed rulemaking for the BE-13, Survey of New Foreign Direct Investment in the United States (81 FR 43126 – 43130). BEA received one comment on the proposed rule. The comment was written by an industry group for private funds that are subject to BE-13 reporting requirements. The letter was generally supportive of the changes to the reporting requirements for private funds.

One point raised in the letter led to an adjustment to the language of the reporting requirements for private funds used in the proposed rule. As stated in the proposed rule, a foreign-owned U.S. private fund would be required to report on BEA's direct investment surveys if it owns at least 10 percent of an operating company. The letter pointed out that under this standard a private fund may be required to report on direct investment surveys even though in certain cases its foreign parent may own less than 10 percent of an operating company. For example, if a foreign parent owns 10 percent voting interest in a U.S. private fund, and that private fund owns 10 percent of an operating company, under the proposed rule the U.S. private fund would be required to report even though the foreign parent's indirect ownership interest in the operating company is just 1 percent. It was not BEA's intention to include investments of less than 10 percent foreign ownership in the direct investment statistics. In this final rule, BEA has clarified language regarding the private fund reporting requirements to indicate that if the foreign parent of a U.S. private fund does not own through the private fund 10 percent or more of an operating company, the private fund is not required to file.

The letter also indicated that the burden estimate provided on the BE-13 form is understated. BEA's burden estimate is an average across the various BE-13 survey forms and across survey respondents with different levels of complexity and different activities or transactions that may be reported on the survey. BEA has noted the input from the private fund industry on burden and employs several strategies to reduce the burden where possible.

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users through the Bureau's Source Data Improvement and Evaluation Program, to ensure that, as much as possible, the required data serve their intended purposes and are available from existing records, that instructions are clear, and that unreasonable burdens are not imposed.

BEA conducted outreach to private funds to solicit feedback on plans to eliminate reporting by certain private funds on BEA's direct investment surveys. All feedback that BEA received was supportive of the change.

The Census Bureau's Data Collection Methodology and Research Branch (DCMRB) is conducting a cognitive review of the BE-13 survey forms under contract for BEA. In 2015, DCMRB interviewed numerous respondents to solicit their opinions about the clarity of the forms and ease of filing. DCMRB then provided BEA with a summary of findings and a list of recommendations for improving the forms. A summary of the comments follows.

DCMRB visited 27 U.S. business enterprises that were either potential respondents or had already filled out one of the survey forms. Each transaction type—acquisition, establishment, expansion, and exemption—was represented, as were a variety of industries. The majority of respondents reported that they could gather the information needed to complete the form.

Two respondents reported difficulty in the cost break down section, specifically with delineating between plant and equipment expenditures and other construction costs. BEA also had several respondents report leases incorrectly. BEA is eliminating “lease” and “construction” from the list of expected costs. Any capitalized lease or construction costs can be reported as “property and equipment” or “other.”

Two respondents noted that the examples were useful but flipping or scrolling back through the pages to reference them was inconvenient. BEA is redesigning the form to repeat examples on as many pages as necessary to alleviate this need to refer to previous pages.

Three respondents missed the preprinted “,000” when reporting their data, thus providing figures in dollars rather than thousands of dollars, as required. BEA is accepting DCMRB's suggestion to reformat the value boxes so that “000” is inside the response box and more visible to respondents.

Three respondents requested that the BE-13 form be available in other languages. Two of these requests came from Chinese companies, and one from a Japanese company. BEA is not able to accommodate this request.

While none of these 27 respondents completed the wrong form, several other companies submitted to BEA a BE-13C form in lieu of a BE-13A form and vice versa. In response, BEA is combining the two forms and inserting screening questions to facilitate the skipping of questions when they are not applicable to that respondent.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payments or gifts to respondents are made.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

BEA provides respondents with assurance that it will keep the reported data confidential. The following statement is taken directly from the reporting instructions for the survey.

“Confidentiality – The Act provides that your report is CONFIDENTIAL and may be used only for analytical or statistical purposes. Without your prior written permission, the information filed in your report CANNOT be presented in a manner that allows it to be individually identified. Your report CANNOT be used for purposes of taxation, investigation, or regulation. Copies retained in your files are immune from legal process.”

Sec. 5(c) of the Act (22 U.S.C. 3104) provides that the information can be used only for analytical and statistical purposes and access to the information shall be available only to officials and employees (including consultants and contractors and their employees) of agencies designated by the President to perform functions under the Act. The President may authorize the exchange of the information between agencies or officials designated to perform functions under the Act, but only for analytical and statistical purposes. No official or employee (including consultants and contractors and their employees) shall publish or make available any information collected under the Act in such a manner that the person to whom the information relates can be specifically identified. Reports and copies of reports prepared pursuant to the Act are confidential, and their submission or disclosure shall not be compelled by any person without the prior written permission of the person filing the report and the customer of such person, where the information supplied is identifiable as being derived from the records of such customer.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No questions of a sensitive nature are asked.

**12. Provide an estimate in hours of the burden of the collection of information.**

U.S. business enterprises, except certain private funds, that are acquired, established, or expanded, directly or indirectly, by a foreign person are required to file an initial BE-13 form. Established or expanded business enterprises will also be required to file a cost update form annually until the establishment or expansion is complete. An estimated 2,550 respondents are expected to file a BE-13 survey form each year. Average burden per respondent is estimated at 1.1 hours, producing an estimated burden of 2,860 hours for the survey, as shown in the RISC/OIRA Consolidated Information System (ROCIS). This covers the amount of time for respondents to review the instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Burden is expected to vary considerably among respondents because of differences in company structure and transaction complexity. A BE-13 Claim for Exemption would require approximately 15 minutes to complete; a report for an enterprise with a multi-level ownership structure and a complex transaction could require up to 4 hours to complete.

BEA believes its proposal reflects a reasonable balance between the needs of data users for complete, accurate, detailed, and timely data, and the concerns of respondents about the burden imposed.

The table below provides details on burden range, average burden, estimated number of respondents, and estimated burden hours by form type.

**Estimated Burden for BE-13**

Form Type	Burden range per response	Average burden hours per response	Estimated number of respondents	Estimated burden hours
BE-13A - Acquisition	1 hours – 4 hours	2.50	650	1,625
BE-13B - Establishment	1 hours – 4 hours	2.20	225	495
BE-13D - Expansion	30 min. – 2 hours	1.20	75	90
BE-13E – Cost Update	15 min. – 1 hour	0.75	500	375
BE-13 Claim for Exemption	15 min.	0.25	1,100	275
<b>Total</b>	<b>15 min. – 4 hours</b>	<b>1.12</b>	<b>2,550</b>	<b>2,860</b>

The reporting requirements for the BE-13 by form are:

1. Form BE-13A—Report for a U.S. business enterprise when a foreign entity acquires a voting interest (directly, or indirectly through an existing U.S. affiliate) in that U.S. business enterprise including segments, operating units, or real estate and (i) the total cost of the acquisition is greater than \$3 million, and (ii) by this acquisition, the foreign entity now owns at least 10 percent of the voting interest (directly, or indirectly through an existing U.S. affiliate) in the acquired U.S. business enterprise.
2. Form BE-13B—Report for a U.S. business enterprise when it is established by a foreign entity or by an existing U.S. affiliate of a foreign parent and (i) the expected total cost to establish the new U.S. business enterprise is greater than \$3 million, and (ii) the foreign entity owns at least 10 percent of the voting interest (directly, or indirectly through an existing U.S. affiliate) in the new U.S. business enterprise.
3. Form BE-13D—Report for an existing U.S. affiliate of a foreign parent when it expands its operations to include a new facility where business is conducted and the expected total cost of the expansion is greater than \$3 million.
4. Form BE-13E—Report for a U.S. business enterprise that previously filed Form BE-13B or BE-13D. Form BE-13E collects updated cost information and will



be collected annually until the establishment or expansion of the U.S. business enterprise is complete.

5. Form BE-13 Claim for Exemption—Report for a U.S. business enterprise that (i) was contacted by BEA but does not meet the requirements for filing Forms BE-13A, BE-13B, or BE-13D; or (ii) whether or not contacted by BEA, met all requirements for filing Forms BE-13A, BE-13B, or BE-13D except the \$3 million reporting threshold.

The estimated annual cost to respondents is \$114,400, based on the estimated reporting burden of 2,860 hours and an estimated hourly cost of \$40.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

Other than respondent cost associated with the estimated burden of 2,860 hours (see A.12. above), the total additional annual cost to respondents is expected to be negligible. Total capital and start-up costs are insignificant because new technology or capital equipment would not be needed by respondents in order to prepare their responses to the survey. As a consequence, the total cost of operating and maintaining the technology and capital equipment will also be insignificant. Purchases of services to complete the information collection are also expected to be insignificant.

**14. Provide estimates of annualized cost to the Federal government.**

The project cost to the Federal Government for this survey is estimated at \$1,650,000, which consists of \$1,100,000 for salaries and related overhead, and \$550,000 for equipment, supplies, forms design, mailing, printing, and computer processing.

**15. Explain the reasons for any program changes or adjustments.**

The annual respondent burden has increased from 2,160 hours to 2,860 hours. The increase in the respondent burden of 700 hours is due to the increase in the number of respondents expected to file. The previous estimate of the number of respondents was made before the survey was launched; the revised estimate is based on two years of data collection.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

Data obtained are aggregated and published annually in articles in the *Survey of Current Business* and in news releases. The articles and news releases are available on BEA's web site, along with more detailed statistics by country and by industry.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

The OMB expiration date will be displayed on the forms.

**18. Explain each exception to the certification statement.**

The BE-13 information collection is consistent with the certification in all aspects.