REPORTING OF U.S. OWNERSHIP ON TIC FORM SHC DUE BY MARCH

Date: 9 February 2022

U.S. Asset Management and Investment Funds Alert

The U.S. Department of the Treasury (Treasury) is currently collecting data from U.S. institutions in connection with its mandatory five-year benchmark survey of the ownership of foreign securities by U.S. residents. This survey must be completed on Form SHC by all U.S. custodians and end-investors (as described below) that exceed the applicable reporting threshold of reportable foreign securities (as described below). The survey must be filed with the Federal Reserve Bank of New York electronically or by email no later than 4 March 2022.

This alert will provide information on who is required to file Form SHC, and a high-level summary of the applicable reporting requirements.

WHO IS REQUIRED TO REPORT?

Form SHC must be filed by U.S. persons or organizations (including U.S. affiliates of foreign entities that are legally organized or licensed in the U.S.) with holdings of reportable foreign securities equal to or greater than US$200 million as of 31 December 2021. Entities required to report include:

- U.S.-resident custodians responsible for the safekeeping of US$200 million or more in reportable foreign securities;
- U.S.-resident end-investors owning or managing US$200 million or more in reportable foreign securities; and
- Any other entity specifically notified by letter from the Federal Reserve Bank of New York.

For purposes of Form SHC, a U.S.-resident end-investor is any U.S.-resident organization that invests in foreign securities for its own account or on behalf of others. The following organizations are within the scope of the survey:

- Financial and non-financial organizations (including intermediate holding companies);
- Managers of private and public pension funds;
- Managers and sponsors of registered funds, exchange traded funds, collective investment trusts, hedge funds, limited partnerships, trusts, private equity funds, venture capital funds and other private investment vehicles;
- Insurance companies;
- Foundations;
- University endowments;

©2005-2026 K&L Gates LLP. All Rights Reserved.

- Trusts and estates; and
- Family offices.

Additionally, Form SHC reporting must be made on a consolidated basis, that is, a single Form SHC reflecting all reportable securities held or managed by all U.S.-resident branches, offices, and majority-owned subsidiaries of an organization must be filed by the top-level U.S.-resident parent entity of the organization. The Form also requires consolidation of proprietary and client assets by asset managers. For these entities, a consolidated report on Form SHC must include all reportable securities held by the organization on a proprietary basis as well as the reportable securities held by the U.S.-resident funds and accounts sponsored or managed by the manager. The report may exclude reportable securities held by non-U.S. subsidiaries or managed for non-U.S. accounts.

STRUCTURE OF FORM SHC

Form SHC is comprised of three separate schedules:

- Schedule 1 must be completed by all filing organizations. Schedule 1 requests basic identifying information for the filing organization as well as summary information regarding the data reported in Schedules 2 and 3 (as applicable).
- Schedule 2 requires detailed information regarding reportable foreign securities held by the filing organization.

U.S. custodians that hold, in the aggregate for all accounts, more than US$200 million in reportable foreign securities must complete Schedule 2 with respect to all reportable securities under their safekeeping (or in the safekeeping of their foreign sub-custody network).

End-investors must complete Schedule 2 if they hold or manage US$200 million or more in reportable foreign securities with non-U.S. custodians or in self-custody. However, end-investors do not need to report securities held through a U.S. custodian on Schedule 2. Thus, an end-investor that owns and manages less than US$200 million held away from a U.S. custodian has no reporting obligation on Schedule 2.

An organization that holds foreign securities reportable on Schedule 2 must complete a separate Schedule 2 for each such security.

- Schedule 3 requests information regarding the U.S.-resident custodian(s) used by the filing organization to hold reportable foreign securities. A filing organization must file a separate Schedule 3 for each U.S. custodian holding US$200 million or more in reportable foreign securities on behalf of the filing organization.

The fair value of the securities as of the close of business on 31 December 2021 should be used for purposes of determining whether an organization holds or manages US$200 million of reportable securities.

WHICH SECURITIES ARE REPORTABLE

Reportable securities generally include all securities (including equities, long-term debt and short-term debt, and certain money market fund instruments) issued by entities that are established under the laws of a country other

©2005-2026 K&L Gates LLP. All Rights Reserved.

than the United States, and all securities issued by international organizations. Neither the country in which the securities are traded or issued, nor the currency in which the securities are denominated, are relevant to determining whether the security in question is reportable. In this regard, the security-specific instructions in Form SHC can be quite nuanced and require careful scrutiny. As an example, depositary receipts held by a U.S. person that provide exposure to foreign securities are reportable, but foreign securities held by a U.S. depository to back depositary receipts are not reportable.

Additional examples of securities that are not reportable include, among others:

- Any U.S. securities, including:
  - Securities issued by U.S.-resident organizations;
  - Securities issued by U.S.-resident subsidiaries of foreign-resident organizations and U.S.-resident offices of foreign banks or foreign broker/dealers;
  - Securities issued by U.S.-resident entities under Section 144A of the Securities Act of 1933;
  - Ownership of shares of U.S.-resident funds; and
  - Stripped securities issued by a U.S.-resident financial institution;
- Direct investments, (i.e., generally, where the U.S.-resident end-investor owns 10% or more of the voting securities of a foreign issuer);
- Derivatives;
- Loans and loan participation certificates;
- Bank deposits; or
- Foreign securities temporarily acquired under reverse repurchase, borrowing, or lending arrangements.

PURPOSE OF FORM SHC

The Treasury International Capital (TIC) reporting system is a set of periodic statistical reports prepared by the Treasury to document the flow of money into and out of the United States through purchases and sales of securities and other financial instruments. The reports generated from this data are used primarily by the Treasury for: (i) computation of U.S. balance of payments; (ii) formulation of international financial policy; and (iii) tracking of developments in international markets. Form SHC is one in a series of TIC forms used by the Treasury to collect information on positions held by U.S. persons in foreign securities for the TIC reporting system.

PENALTY FOR NONCOMPLIANCE

Notwithstanding the fact that Form SHC is designed to facilitate the collection of information for survey purposes, filing is mandatory for designated organizations and failure to provide timely and accurate data can result in penalties under applicable law. Accordingly, Form SHC should be filed prior to the 4 March 2022 reporting deadline.

©2005-2026 K&L Gates LLP. All Rights Reserved.

CONFIDENTIALITY OF DATA

The information collected on Form SHC will be made available to the general public only at an aggregate level; the reports of individual filing organizations are treated as confidential.

For additional information:

The Federal Register notice announcing the survey can be found here. Form SHC and the related instructions may be found on the Department of Treasury website here.

Should you need any assistance to complete this form, do not hesitate to contact us.

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.

©2005-2026 K&L Gates LLP. All Rights Reserved.