

## Reminder—Form SHC: Report of U.S. Ownership of Foreign Securities Due March 4, 2022

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Lowenstein Sandler's Investment Management Group is pleased to provide you with (i) background information on the purpose and applicability of Form SHC; (ii) a summary of its contents; (iii) considerations for pooled investment vehicles such as hedge funds, private equity funds, and other alternative investment vehicles with respect to Form SHC; and (iv) information on its filing deadline.

### Background

*Form SHC: Report of U.S. Ownership of Foreign Securities, Including Selected Money Market Instruments* is a quinquennial (recurring every five years) benchmark survey filed with the Federal Reserve Bank of New York. The data collected by the Federal Reserve Bank of New York, acting on behalf of the Department of the Treasury (Treasury), is used by the U.S. Government to determine the U.S. balance of payments accounts, U.S. international investment position, to assist in formulating U.S. international financial and monetary policies, and to improve the statistics of the holdings of foreign securities by major investing countries compiled and maintained by the International Monetary Fund (IMF).

A U.S. resident custodian of foreign securities or "end-investor" (a U.S. resident organization holding investments in foreign securities for others or for its own portfolio, such as an investment manager or fund sponsor) is required to file this report if it (i) received notice from the Federal Reserve Bank of New York that it is required to file, or (ii) has holdings of foreign portfolio securities above the reporting thresholds (described below).

A U.S. end-investor includes, but is not limited to financial and non-financial organizations (i.e., Intermediate Holdings Companies), managers of private and public pension funds, managers or sponsors of private investment vehicles (e.g., money market mutual funds, unit-investment funds, exchange-traded funds, hedge funds, limited partnerships, private equity companies, and venture capital companies), insurance companies, foundations, university endowments, and trusts and estates.

A U.S. resident person or organization required to file Form SHC must provide detailed security-by-security information on its holdings of foreign securities. Form SHC collects information on U.S. resident holdings of (i) foreign portfolio securities (i.e., foreign equities); (ii) short-term debt securities (including selected money market instruments); (iii) long term debt securities; and (iv) asset-backed securities, which should be reported separately from other debt securities. Foreign securities are all securities issued by entities that are established under the laws of a foreign country (i.e., any entity that is legally incorporated in a foreign country) and all securities issued by international or regional organizations.

Certain security types are not reportable under Form SHC, including but not limited to: derivative contracts (e.g., futures, forwards, swaps, options, and warrants), loans and loan participation certificates, letters of credit, non-negotiable certificates of deposit (CDs), and bank deposits (except for negotiable CDs). Holdings known to be "direct investments" (10 percent or more of the voting equity securities of an incorporated, or equivalent interest in an unincorporated, foreign business) are excluded from reporting on Form SHC.

### Contents of Form SHC

Form SHC consists of three schedules, each with a different reporting requirement:

- Schedule 1. This schedule captures basic identifying information about the reporter and its reporting status as well as provide summaries of the data reported on Schedule 2 and Schedule 3. If a custodian or end-investor has received notice from the Federal Reserve Bank of New York that it is required to file, but it does not meet the reporting thresholds (described below), such a reporter would only need to provide basic identifying information and indicate its reporting status as "exempt."
- Schedule 2. This schedule captures detailed data regarding foreign securities (i) whose safekeeping the reporter manages for itself and for other U.S. residents; (ii) whose safekeeping

the reporter has entrusted directly to foreign resident sub-custodians or U.S. resident or foreign resident central securities depositories to manage the safekeeping of those securities; or (iii) of a type for which there is no U.S. custodian to manage their safekeeping. Schedule 2 needs to be completed only if the total fair value (aggregated over all accounts) of such foreign securities is \$200 million or greater.

- Schedule 3. This schedule captures summary data regarding foreign securities entrusted to an unaffiliated U.S. resident custodian (that is not a U.S. resident central securities depository) by the U.S. parts of the reporter's organization and its U.S. resident clients whom the reporter represents as an end-investor. The detailed security-by-security information with respect to such foreign securities will be reported on Schedule 2 of Form SHC submitted by the unaffiliated U.S. resident custodian. Schedule 3 needs to be completed for each U.S. custodian only if the total fair value (aggregated over all accounts) of such foreign securities is \$200 million or greater.

### **Impact on Hedge Funds, Private Equity Funds, and Other Alternative Investment Vehicles**

Nonvoting equity interests in foreign resident funds must be included as reportable equity securities on Form SHC by a U.S. resident person or organization, if such person or organization has holdings of foreign portfolio securities above the reporting thresholds (described above). The foreign security ownership interest in a fund is determined based

on the country where the fund is legally established, regardless of the location of where the security is issued or traded. Accordingly, investment advisers, managers, or similar types of legal entities and fund sponsors that establish master-feeder fund structures both outside and inside the U.S. should report all portfolio investments between the U.S. and foreign resident affiliate funds that the investment manager has set up. That is to say, limited partnership interests in a Cayman master fund held by a U.S. feeder fund implicate Form SHC.

### **When to File**

Form SHC data as of December 31, 2021 must be filed with the Federal Reserve Bank of New York no later than **March 4, 2022**. As a reminder, Form SHC need only be filed by a U.S. custodian or end-investor who either (i) received notice from the Federal Reserve Bank of New York that it is required to file, or (ii) has holdings of foreign portfolio securities above the reporting thresholds (described above). A copy of Form SHC and related instructions, as released by the Department of the Treasury, can be found [here](#).

Lowenstein Sandler's Investment Management Group is available to answer any questions relating to Form SHC and your business. Similarly, we can provide an analysis of whether your business entities have any Form SHC reporting obligations, as well as assist you with the preparation and filing of Form SHC.

## **Contacts**

Please contact the listed attorneys for further information on the matters discussed herein.

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