

**DEPARTMENT OF COMMERCE****Bureau of Economic Analysis****15 CFR Part 806**

[Docket No. 971110266-7266-01]

RIN 0691-AA31

**Direct Investment Surveys: Raising Exemption Level for Two Surveys of Foreign Direct Investment in the United States**

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document sets forth proposed rules to amend 15 CFR 806.15 by raising the exemption level for reporting in two surveys of foreign direct investment in the United States: raise the exemption level for Forms BE-605 and BE-605 Bank to \$30 million from \$20 million; and raise the exemption level for Forms BE-13 and BE-14 to \$3 million from \$1 million.

The purpose of these changes is to bring the surveys into conformity with the proposed design of the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1997. It is expected that the changes will effect a reduction in the number of reports filed by U.S. affiliates of foreign persons and thereby reduce reporting burden. BEA is proposing other changes to the surveys that do not require a change in the rule, and that may increase the reporting burden slightly for the BE-605 survey, thereby offsetting a portion of the reduction in burden that results from raising the exemption level.

**DATES:** Comments on the proposed rules will receive consideration if submitted in writing on or before January 26, 1998.

**ADDRESSES:** Comments may be mailed to the Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to Room M-100, 1441 L Street NW., Washington, DC 20005. Comments received will be available for public inspection in Room 7006, 1441 L Street NW., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** R. David Belli, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone 202-606-9800.

**SUPPLEMENTARY INFORMATION:** The two surveys affected by these changes are part of the Bureau of Economic Analysis (BEA) data collection program for foreign direct investment in the United

States. The surveys, the BE-605, Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, with Foreign Parent, together with the BE-605 Bank, Transactions of U.S. Banking Affiliate with Foreign Parent, and the BE-13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate, together with BE-14, Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters Into a Joint Venture with, a Foreign Person, are mandatory and are conducted pursuant to the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108, as amended).

The proposed changes will bring reporting by U.S. affiliates on the BE-605 quarterly survey, the first of the two surveys, into conformity with their reporting on the proposed BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1997. The BE-12 is BEA's quinquennial census of foreign direct investment in the United States; it collects annual data and is intended to cover the universe of U.S. affiliates. (A U.S. affiliate is a U.S. business enterprise in which a foreign person owns or controls ten percent or more of the voting stock, or an equivalent interest in an unincorporated business enterprise.) The BE-605 is a sample survey covering only larger U.S. affiliates. The sample data reported in the BE-605 survey will be linked to data from the BE-12 benchmark survey in order to derive universe estimates by quarter for benchmark and nonbenchmark years. Under this proposed rule, the exemption level for the BE-605 survey will be raised from more than \$20 million to more than \$30 million of assets, sales, or net income. The proposed level of \$30 million is the same as that proposed to be used in the BE-12 Benchmark Survey of Foreign Direct Investment in the United States—1997, to determine whether reporting companies are required to provide similar balance of payments data on the BE-12(SF) short form. Below the \$30 million threshold, companies reporting on the BE-12 do not provide these data.

In addition to raising the exemption level, BEA is proposing one other change to the BE-605 survey form. Specifically, it is proposing that trade in services between U.S. affiliates and their foreign parents be reported once each year by type of service, similar to reporting on the proposed BE-12 benchmark survey. This change is necessary to bring the data collected on foreign direct investment in the United

States into conformity with those collected on U.S. direct investment abroad data and also with current international guidelines for the compilation of balance of payments accounts. Currently BEA can only provide detail by type of service for unaffiliated, but not affiliated, transactions for foreign direct investment in the United States.

However, this addition does not require a rule change and is indicated here only for information. The revised BE-605 and BE-605 Bank forms would be required to be filed beginning with the report for the first calendar quarter of 1998.

For the BE-605 survey, an increase in the reporting burden due to adding the requirement to provide information on services transactions by type of service has been kept to a minimum by requesting that the added information be reported only once each year. Many respondents do not have transactions in services and will not have to file the added information; those that do will only be required to provide it once each year, along with other data that are already required to be filed annually following the end of their fiscal year. In order to allow for respondents' review of the additional instructions and the provision of the information that will be required only on an annual basis, the average burden was increased by one-fourth of an hour (1 hour for one of the four quarters for which reports will be filed). The reporting changes will only affect the BE-605 and not the BE-605 Bank form and are the minimum necessary to maintain consistency with the benchmark survey. However, because of raising the reporting threshold to \$30 million from \$20 million, BEA estimates that 650 companies, or 14 percent of potential respondents, will drop out of the reporting sample, thus reducing the increased burden associated with reporting services transactions by type.

The second of the two surveys affected by these rules changes is the BE-13 new investment survey. In the proposed 1997 BE-12 benchmark survey, the reporting threshold is raised to over \$3 million from over \$1 million of assets, sales, or net income in the previous benchmark survey. Accordingly, BEA proposes to raise the threshold for reporting on the BE-13 new investment survey (measured by the acquired or established U.S. company's total assets) to \$3 million to correspond to the initial reporting level on the BE-12. For both surveys, the BE-13 and BE-12, only an exemption claim must be filed for companies below the \$3 million level, thereby reducing

respondent burden for small companies. A concomitant requirement on the BE-13 that a report be filed for all acquisitions of 200 or more acres of U.S. land will not be changed. The exemption level for the related form BE-14 also is raised to correspond to the new \$3 million threshold for the BE-13.

To maintain consistency with the benchmark survey, BEA also proposes to base the industry coding system used on the BE-13 on the new North American Industry Classification System (NAICS) in place of the current system, which is based on the U.S. Standard Industrial Classification System. However, this modification does not require a rule change and therefore is not reflected in this proposed rule. The revised BE-13 and BE-14 report forms would be required to be filed for reports covering 1998 transactions.

The change in the basis for industry coding should not affect the average reporting burden for the BE-13 new investment survey. However, BEA estimates that 300 potential respondents to the survey will not be required to file in the survey because of raising the reporting threshold to \$3 million from \$1 million. This represents a 20 percent decrease in the estimated number of reporters that would otherwise be required to report in the survey.

A copy of the proposed survey forms may be obtained from: Chief, Direct Investment in the United States Branch, International Investment Division, BE-49, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606-5577.

#### **Executive Order 12612**

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

#### **Executive Order 12866**

These proposed rules have been determined to be not significant for purposes of E.O. 12866.

#### **Paperwork Reduction Act**

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3507 of the Paperwork Reduction Act.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid Office of Management and Budget Control Number.

Public reporting burden for the BE-605 collection of information is estimated to vary from 1/2 hour to 4 hours per response with an average 1 1/4 hours per response. The estimated average burden of 1 1/4 hours per form includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public reporting burden for the BE-13 collection of information is estimated to vary from 1 to 4 hours per response, with an average 1 1/2 hours per response. The estimated average burden of 1 1/2 hours includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE-1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0009 (BE-605/605 Bank) or Paperwork Reduction Project 0608-0035 (BE-13/14), Washington, DC 20503.

#### **Regulatory Flexibility Act**

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Most small businesses are not foreign owned, and many that are will not be required to report because of these proposed changes. For the BE-605 quarterly survey, the proposed rule changes increase the exemption level at which reporting will be required, thereby

eliminating the reporting requirement for a number of small companies. For the BE-13 new investment survey, the reporting threshold is being raised from \$1 million to \$3 million, thus eliminating an additional number of small companies that would have been required to file. These provisions are intended to reduce the reporting burden on smaller companies.

#### **List of Subjects in 15 CFR Part 806**

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting and recordkeeping requirements.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR part 806 as follows:

#### **PART 806—DIRECT INVESTMENT SURVEYS**

1. The authority citation for 15 CFR Part 806 continues to read as follows:

**Authority:** 5 U.S.C. 301, 22 U.S.C. 3101-3108, and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

#### **§ 806.15 [Amended]**

2. Section 806.15(h)(1) is amended by deleting "\$20,000,000" and inserting in its place "\$30,000,000."

3. Section 806.15(h)(2) is amended by deleting "\$20,000,000" and inserting in its place "\$30,000,000."

4. Section 806.15(j)(3)(ii)(b) is amended by deleting "\$1,000,000" and inserting in its place "\$3,000,000."

5. Section 806.15(j)(3)(ii)(c) is amended by deleting "\$1,000,000" and inserting in its place "\$3,000,000."

6. Section 806.15(j)(4)(ii)(b) is amended by deleting "\$1,000,000" and inserting in its place "\$3,000,000."

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#### **DEPARTMENT OF THE INTERIOR**

##### **Office of Surface Mining Reclamation and Enforcement**

##### **30 CFR Part 917**

[KY-217-FOR]

##### **Kentucky Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.