

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

[Docket No. 020913214-2214-01]

RIN 0691-AA45

Direct Investment Surveys: BE-605, Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, With Foreign Parent, and BE-605 Bank, Transactions of U.S. Banking Affiliate With Foreign Parent**AGENCY:** Bureau of Economic Analysis, Commerce.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This notice sets forth a proposed rule to amend the reporting requirements for the quarterly survey of foreign direct investment in the United States, which is comprised of two forms—the BE-605, Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, With Foreign Parent, and BE-605 Bank, Transactions of U.S. Banking Affiliate with Foreign Parent.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The BE-605 and BE-605 Bank are mandatory surveys and are conducted quarterly by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. BEA will send survey forms to potential respondents each quarter; responses will be due within 30 days after the close of each fiscal quarter, except for the final quarter of the fiscal year, when reports will be due within 45 days. These surveys are cut-off sample surveys that cover all U.S. affiliates above a size-exemption level and seek to obtain data on transactions and positions between U.S. affiliates and their affiliated foreign groups.

BEA proposes the following changes: Direct bank holding companies (BHC's) to file a fully consolidated report, including all banking and nonbanking operations, on the BE-605 Bank form. Previously, the banking and nonbanking operations of a BHC filed separate reports: the nonbank operations of the BHC filed on the BE-605 form, and the BHC itself and its banking operations filed on the BE-605 Bank form. To reduce respondent burden for BHC's, BEA proposes that the BHC file

a single, fully consolidated, report to include both its banking and nonbanking operations on the BE-605 Bank form. However, separate reports still will be filed in those special instances where a U.S. affiliate's primary line of business is not in banking (or related financial activities), such as a manufacturer or retailer, but the affiliate also has a direct or indirect ownership in a BHC (or other banking activities such as U.S. wholesale or limited purpose banks). In these instances, the BHC, including all of its subsidiaries or units, will file on the BE-605 Bank form and the nonbanking operations not owned by the BHC will file on the BE-605 form. Add questions to the BE-605 Bank form to collect data on loans from or to the foreign parent group by certain nonbanking subsidiaries (e.g., insurance companies) included in the consolidated report to maintain consistency of the U.S. international transactions accounts with international statistical standards and avoid gaps in coverage. Add questions to the BE-605 Bank form to collect detail on intercompany premiums earned and claims payable for insurance companies included in the consolidated report.

BEA believes that the proposed changes should result in no change in the overall respondent burden. Any increase in burden due to the addition of questions on the BE-605 Bank form will be offset by a reduction in burden for BHC's, because reporting for these entities will be more consistent with the filing of regulatory reports and annual reports to stockholders.

DATES: Comments on these proposed rules will receive consideration if submitted in writing on or before December 16, 2002.

ADDRESSES: Direct all written comments to the Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230. Because of slow mail, and to assure that comments are received in a timely manner, please consider using one of the following delivery methods: (1) Fax to (202) 606-5318, (2) deliver by courier to U.S. Department of Commerce, Bureau of Economic Analysis, BE-49(A), Shipping and Receiving, Section M100, 1441 L Street NW., Washington, DC, 20005, or (3) e-mail to David.Belli@bea.gov. Comments received will be available for public inspection in Room 7005, 1441 L Street NW., between 8:30 a.m. and 4:30 p.m., eastern time 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: This proposed rule amends 15 CFR 806.15 to set forth reporting requirements for the BE-605, Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, With Foreign Parent, and BE-605 Bank, Transactions of U.S. Banking Affiliate with Foreign Parent. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey 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 with respect to foreign direct investment in the United States, the President shall, to the extent he deems necessary and feasible—

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.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA.

The quarterly survey is a cut-off sample survey that covers all U.S. affiliates above a size-exemption level and obtains data on transactions and positions between U.S. affiliates and their affiliated foreign groups. (The affiliated foreign group is (i) the foreign parent, (ii) any foreign parent, proceeding up the foreign parent's ownership chain, which owns more than 50 percent of the person below it up to and including that person which is not more than 50 percent owned by another foreign person, and (iii) any foreign person, proceeding down the ownership chain(s) of each of these members, which is owned more than 50 percent by the person above it.) The sample data are used to derive universe estimates in nonbenchmark years by extrapolating forward similar data reported in the BE-12, Benchmark Survey of Foreign Direct Investment in the United States, which is taken every five years. The data are used in the preparation of the U.S. international transactions accounts, the input-output accounts, and the national income and product accounts. The data are needed

to measure the size and economic significance of foreign direct investment in the United States, measure changes in such investment, and assess its impact on the U.S. economy. The data are disaggregated by industry of U.S. affiliate, by country of foreign parent, and, for selected items, by country of each member of the affiliated foreign group.

BEA proposes the following changes:

(1) Direct bank holding companies (BHC's) to file a fully consolidated report, including all banking and nonbanking operations, on the BE-605 Bank form. Previously, the banking and non-banking operations of a BHC were required to file separate reports: the nonbank operations of the BHC filed on the BE-605 form, and the BHC itself and its banking operations filed on the BE-605 Bank form. To reduce respondent burden for BHC's, BEA proposes that the BHC file a single, fully consolidated, report to include both its banking and nonbanking operations on the BE-605 Bank form. However, separate reports still will be filed in those special instances where a U.S. affiliate's primary line of business is not in banking (or related financial activities), such as a manufacturer or retailer, but the affiliate also has a direct or indirect ownership in a BHC (or other banking activities such as U.S. wholesale or limited purpose banks). In these instances, the BHC, including all of its subsidiaries or units, will file on the BE-605 Bank form and the nonbanking operations not owned by the BHC will file on the BE-605 form. (2) Add questions to the BE-605 Bank form to collect data on loans from or to the foreign parent group by certain nonbanking subsidiaries (e.g., insurance companies) included in the consolidated report to maintain consistency of the U.S. international transactions accounts with international statistical standards and avoid gaps in coverage. (3) Add questions to the BE-605 Bank form to collect detail on intercompany premiums earned and claims payable for insurance companies included in the consolidated report.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications, as that term is defined in E.O. 13132.

Executive Order 12866

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

Paperwork Reduction Act

This proposed rule contains a new collection-of-information requirement

subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The new requirement has been submitted to OMB for approval as a revision to a collection currently approved under OMB control number 0608-0009.

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.

An estimated 3,950 U.S. affiliates are expected to file responses quarterly, or 15,800 responses annually. The average burden for completing the BE-605 and BE-605 Bank remains unchanged at 1.25 hours per response, per quarter (five hours per year); the total annual respondent burden, from the current OMB inventory, also remains unchanged at 19,750 hours (15,800 responses times 1.25 hours average burden). This estimate 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. The burden estimates used in this submission are based upon experience with the same quarterly survey forms for several years and upon the burden estimates developed at the time of the benchmark survey.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions 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, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under

the 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. Few, if any, small U.S. businesses are subject to the reporting requirements of this survey. Most small businesses are not foreign owned; those that are and have total assets, sales or gross operating revenues, and net income each equal to or less than \$30 million are not required to report on the BE-605 or BE-605 Bank form.

List of Subjects in 15 CFR Part 806

International transactions, economic statistics, foreign investment in the United States, penalties, reporting and recordkeeping requirements.

Rosemary Marcuss,

Acting 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).

2. Section 806.15 (h)(1) and (2) are revised to read as follows:

§ 806.15 Foreign direct investment in the United States.

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(h) * * *

(1) BE-605—Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, With Foreign Parent: One report is required for each U.S. affiliate exceeding an exemption level of \$30,000,000, that does not qualify for reporting on form BE-605 Bank.

(2) BE-605 Bank—Transactions of U.S. Banking Affiliate with Foreign Parent: One report is required for each U.S. banking affiliate or U.S. bank holding company affiliate, including all of the subsidiaries and units of the bank holding company, exceeding an exemption level of \$30,000,000.

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[FR Doc. 02-26220 Filed 10-15-02; 8:45 am]

BILLING CODE 3510-06-P