

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

[Docket No. 100202061-0063-01]

RIN 0691-AA75

Direct Investment Surveys: BE-577, Quarterly Survey of U.S. Direct Investment Abroad—Direct Transactions of U.S. Reporter With Foreign Affiliate**AGENCY:** Bureau of Economic Analysis, Commerce.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations of the Bureau of Economic Analysis (BEA), Department of Commerce, to set forth the reporting requirements for BE-577 quarterly survey of U.S. direct investment abroad. The survey is conducted quarterly and obtains sample data on transactions and positions between U.S.-owned foreign business enterprises and their U.S. parents.

BEA proposes modification of items on the survey form and in the reporting criteria. Changes are proposed to bring the BE-577 forms and related instructions into conformity with the 2009 BE-10, Benchmark Survey of U.S. Direct Investment Abroad, and to raise the threshold for reporting.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before 5 p.m. November 1, 2010.

ADDRESSES: You may submit comments, identified by RIN 0691-AA75, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. For agency, select "Commerce Department—all."

- *E-mail:* David.Galler@bea.gov.
- *Fax:* Office of the Chief, Direct Investment Division, (202) 606-5318.
- *Mail:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Washington, DC 20230.

- *Hand Delivery/Courier:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Shipping and Receiving, Section M100, 1441 L Street, NW., Washington, DC, 20005.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information

requirements contained in the proposed rule should be sent to both BEA through any of the methods above and to the Office of Management and Budget (OMB), O.I.R.A., Paperwork Reduction Project 0608-0004, Attention PRA Desk Officer for BEA, via e-mail at pbugg@omb.eop.gov, or by FAX at (202) 395-7245.

Public Inspection: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commentator may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: David H. Galler, Chief, Direct Investment Division, BE-50, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606-9835.

SUPPLEMENTARY INFORMATION: In Section 3 of Executive Order 11961, as amended by Executive Orders 12318 and 12518, the President delegated responsibility for performing functions under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA. The BE-577 quarterly survey of U.S. direct investment abroad is a mandatory survey and is conducted quarterly by BEA under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101-3108 (the Act).

The survey is a sample survey that collects data on transactions and positions between U.S.-owned foreign business enterprises and their U.S. parents. The sample data are used to derive quarterly universe estimates from similar data reported in the BE-10, Benchmark Survey of U.S. Direct Investment Abroad, which is conducted every five years. The data are used in the preparation of the U.S. international transactions accounts and national income and product accounts. The data are needed to measure the size and economic significance of U.S. direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. BEA will send BE-577 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.

This proposed rule would amend 15 CFR 806.14 to set forth the reporting

requirements for the BE-577 quarterly survey of U.S. direct investment abroad. 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, 44 U.S.C. 3501-3520 (PRA).

Description of Changes

BEA proposes to raise the threshold for exempting entities from the reporting requirements of BE-577 from \$40 million to \$60 million and to discontinue collecting information on transactions classified as permanent debt and related interest payments between U.S. parent companies that are banks, bank holding companies, or financial holding companies and their bank foreign affiliates. Recent changes in international standards call for the bank permanent debt previously classified as direct investment to be classified as other investment, for which statistics are collected by the Treasury Department through the Treasury International Capital System. BEA also proposes to change the title of Form BE-577 to "Quarterly Survey of U.S. Direct Investment Abroad—Transactions of U.S. Reporter With Foreign Affiliate."

The exemption level was last changed in 2006 following the 2004 Benchmark Survey of U.S. Direct Investment Abroad. The exemption level is stated in terms of the foreign affiliate's assets, sales, and net income. U.S. parents would be required to report for their foreign affiliates if the foreign affiliates have total assets, sales or gross operating revenues, or net income greater than \$60 million (positive or negative). At the new reporting threshold, BEA would collect about 14,500 forms per quarter, compared to 17,500 under the previous threshold. About 3,000 affiliates—accounting for less than 1.5 percent of the final universe estimates of income and position—would drop out of the sample and would be estimated based on reports received on the benchmark survey.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, conducts the BE-577 survey under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108), hereinafter, "the Act." Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that, with respect to United States direct investment abroad, 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 that 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.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

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

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the OMB under the PRA. The requirement has been submitted to OMB for approval as a revision to a collection currently approved under OMB control number 0608-0004.

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 PRA unless that collection displays a currently valid OMB control number.

The BE-577 survey, as proposed, is expected to result in the filing of about 14,500 foreign affiliate reports by an estimated 1,750 U.S. parent companies. A parent company must file one form per affiliate. The respondent burden for this collection of information is estimated to vary from one-half hour to three hours per response, with an average of one hour per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Because reports are filed 4 times per year, 58,000 responses annually are expected. Thus, the total annual respondent burden of the survey is estimated at 58,000 hours (14,500 respondents filing 4 times per year multiplied by 1 hour average burden). The survey's estimated respondent burden of 58,000 hours compares with a total burden of 62,000 burden hours in the current OMB inventory. The reduction in burden is a result of raising

the threshold for filing from \$40 million to \$60 million.

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.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in the proposed rule should be sent to both BEA and OMB following the instructions given in the **ADDRESSES** section above.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration (SBA), 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 small U.S. businesses are subject to the reporting requirements of this survey. U.S. companies that have direct investments tend to be quite large. Although the BE-577 survey does not itself collect data on the size of the U.S. companies that must respond, data collected on related BEA surveys indicate that about 200 of the estimated 1,750 U.S. parent companies that will be required to respond to the BE-577 quarterly survey are small businesses according to the standards established by the SBA. The exemption level for the BE-577 survey is set in terms of the size of a U.S. company's foreign affiliates (foreign companies owned 10 percent or more by the U.S. company); if a foreign affiliate has total assets, sales or gross operating revenues, or net income greater than \$60 million (positive or negative), it must be reported. Usually, the U.S. parent company that is required to file the report is many times larger than its largest foreign affiliate.

The approximately 200 U.S. businesses that meet the SBA small business standards tend to have few foreign affiliates, and the foreign affiliates that they do own are small for the purposes of this analysis. With the proposed increase in the exemption level for the BE-577 survey from \$40 million to \$60 million (stated in terms of the foreign affiliate's assets, sales, and

net income), small U.S. businesses will be required to file fewer reports for their foreign affiliates than would be required in the absence of this increase.

Because few small businesses are impacted by this rule, and because those small businesses that are impacted are subject to only minimal recordkeeping burdens, the Chief Counsel for Regulation certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, International transactions, Penalties, Reporting and recordkeeping requirements, U.S. investment abroad.

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; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173); E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.14(e) is revised to read as follows:

§ 806.14 U.S. direct investment abroad.

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(e) *Quarterly report form.* BE-577, Quarterly Survey of U.S. Direct Investment Abroad—Transactions of U.S. Reporter With Foreign Affiliate: One report is required for each foreign affiliate exceeding an exemption level of \$60 million except that a report need not be filed by a U.S. Reporter to report direct transactions with one of its foreign affiliates in which it does not hold a direct equity interest unless an intercompany balance for the quarter exceeds \$1 million.

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