

## PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

**Authority:** 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961 3 CFR, 1977 Comp., p. 860 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 801.9 is amended by revising paragraph (b)(5)(ii) to read as follows:

### § 801.9 Reports required.

(b) \* \* \*

(5) \* \* \*

(ii) *Exemption.* A U.S. person otherwise required to report is exempt if total receipts and total payments of the types covered by the form are each \$2 million or less in the reporting year. If the total of either covered receipts or payments is more than \$2 million in the reporting year, a report must be filed.

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 801

[Docket No. 000609170–0170–01]

RIN 0691–AA38

### International Services Surveys: BE–82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document sets forth proposed rules to revise regulations to present the reporting requirements for the BE–82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

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–82 survey is mandatory and is conducted annually, in which years the

BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons is not conducted, by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act hereinafter “the Act,” and under Section 5408 of the Omnibus Trade and Competitiveness Act of 1988. The first annual survey conducted under these proposed rules will cover transactions in fiscal year 2000. BEA will send the survey to potential respondents in January of the year 2001; responses will be due by March 31, 2001. The last annual survey was conducted for 1998. The annual survey will obtain data used to update universe data, collected on the BE–80 benchmark survey, on trade in financial services, by type and by country, between U.S. financial services providers and unaffiliated foreign persons. Data from the BE–82 survey (and the benchmark survey, the BE–80) are needed to monitor trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on financial services, conduct trade promotion, improve the ability of U.S. businesses to identify and evaluate market opportunities, and for other Government uses.

BEA proposes to raise the exemption level for the BE–82 survey to \$10 million in covered sales or purchases transactions, from \$5 million on the previous (1998) survey. Raising the exemption level will reduce burden, particularly for small companies. BEA also proposes to combine private placement services with underwriting services, combine foreign exchange brokerage services with other brokerage services, and create a separate category for electronic funds transfers. The changes in the types of services to be reported separately mirror changes introduced in the 1999 BE–80 benchmark survey. Finally, BEA has restated the definition of “financial services provider” using the nomenclature of the new North American Industry Classification System that has replaced the U.S. Standard Industrial Classification System.

The changes in the types of services to be reported separately reflect BEA’s experience in collecting data on financial services transactions over the past 6 years. Data collected for both private placement and foreign exchange brokerage services have been very small and do not justify the continuation of

separate reporting. Electronic funds transfer services, in contract, appear to account for a large fraction of both total receipts and total payments for “other financial services,” in which electronic funds transfers were previously included.

**DATES:** Comments on these proposed rules will receive consideration if submitted in writing on or before November 20, 2000.

**ADDRESSES:** Mail comments 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 deliver comments to room M–100, 1441 L Street, NW., Washington, DC 20005. Comments will be available for public inspection in room 7005, 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:** These proposed rules amend 15 CFR Part 801 to set forth revised reporting requirements for the BE–82, Annual Survey of Financial Services Transactions Between Financial Services Providers and Unaffiliated Foreign Persons. 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), and under Section 5408 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4908). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that “The President shall, to the extent he deems necessary and feasible—\* \* \* (1) conduct a regular data collection program to secure current information \* \* \* related to international investment and trade in services \* \* \*; and (5) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection \* \* \*.” In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to monitor trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on

financial services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

As proposed, BEA will conduct the BE-82 survey in years in which a BE-80 benchmark survey, or census, is not conducted. The last survey was conducted for 1998. The survey will update the data provided on the universe of financial services transactions between U.S. financial services providers and unaffiliated foreign persons. Reporting is required from U.S. financial services providers who have sales to or purchases from unaffiliated foreign persons in all covered financial services combined in excess of \$10 million during the reporting year. Financial services providers meeting this criteria must supply data on the amount of their sales or purchases for each covered type of service, disaggregated by country. U.S. financial services providers that have covered transactions of less than \$10 million during the reporting year are asked to provide voluntary estimates of their total sales and purchases of each type of financial service.

#### Executive Order 13132

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

#### Executive Order 12866

These proposed rules are 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 (PRA) and have been submitted to the Office of Management and Budget for review under the PRA.

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.

The survey, as proposed, is expected to result in the filing of reports, containing mandatory or voluntary data, from about 375 respondents. The average burden for completing the BE-82—both the mandatory and voluntary sections—is estimated to be 7 hours. Thus, the total respondent burden of the survey is estimated at 2,600 hours (375 respondents times 7 hours average

burden). The actual burden will vary from reporter to reporter, depending upon the number and variety of their financial services transactions and the ease of assembling the data. Thus, it may range from 4 hours for a reporter that has a small number and variety of transactions and easily accessible data, or that reports only in the voluntary section of the form, to 150 hours for a very large reporter that engages in a large number and variety of financial services transactions and has difficulty in locating and assembling the required data. This estimate 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 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 0608-0062, 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 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. The information collection excludes most small businesses from mandatory reporting. Companies that engage in international financial services transactions tend to be quite large. In addition, the reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. The BE-82 annual survey will be required only from U.S. persons with sales to, or purchases from, unaffiliated foreign persons in excess of \$10 million during the reporting year, in all covered financial services transactions combined; the exemption level for the previous annual survey, covering 1998,

was \$5 million. Thus, the exemption level will exclude most small businesses from mandatory coverage. Of those smaller businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of transaction; therefore, the burden on them should be small.

#### List of Subjects in 15 CFR Part 801

Balance of payments, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: September 15, 2000.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

#### PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

**Authority:** 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; 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 801.9 is amended by revising paragraph (b)(7) to read as follows:

#### § 801.9 Reports required.

(b) \* \* \*

(7) BE-82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons:

(i) A BE-82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, will be conducted covering companies' 1995 fiscal year and every year thereafter except when a BE-80 Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, is conducted (see § 801.11). All legal authorities, provisions, definitions, and requirements contained in § 801.1 through § 801.8 are applicable to this survey. Additional rules and regulations for the BE-82 survey are given in paragraphs (b)(7)(i)(A) through (D) of this section. More detailed instructions are given on the report from itself.

(A) *Who must report*—(1) Mandatory reporting. Reports are required from

each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary or part that is a financial services provider or intermediary, and who had transactions (either sales or purchases) directly with unaffiliated foreign persons in all financial services combined in excess of \$10,000,000 during its fiscal year covered by the survey. The \$10,000,000 threshold should be applied to financial services transactions with unaffiliated foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the \$10,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgement of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(2) *Voluntary reporting.* If, during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries or parts combined that are financial services providers or intermediaries, are \$10,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the \$10,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both sales or purchases.

(B) *BE-82 definition of financial services provider.* Except for Monetary Authorities (i.e., Central Banks), the definition of financial services provider used for this survey is identical in coverage to Sector 52—Finance and Insurance—of the North American Industry Classification System, United States, 1997. For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit

intermediation and related activities (including commercial banking, holding companies, savings institutions, check cashing, and debit card issuing); nondepository credit intermediation (including credit card issuing, sales financing, and consumer lending); securities, commodity contracts, and other financial investments and related activities (including security and commodity futures brokers, dealers, exchanges, traders, underwriters, investment bankers, and providers of securities custody services); insurance carries and related activities (including agents, brokers, and service providers); investment advisors and managers and funds, trusts, and other financial vehicles (including mutual funds, pension funds, real estate investment trusts, investors, stock quotation services, etc.).

(C) *Covered types of services.* The BE-82 survey covers the same types of financial services transactions that are covered by the BE-80 benchmark survey, as listed in § 801.11(c)

(D) *What to file.* (1) The BE-82 survey consists of Forms BE-82 (A) and BE-82(B). Before completing a form BE-82 (B), a consolidated U.S. enterprise (including the top parent and all of its subsidiaries and parts combined) must complete Form BE-82(A) to determine its reporting status. If the enterprise is subject to the mandatory reporting requirement, or if it is exempt from the mandatory reporting requirement but chooses to report data voluntarily, either a separate Form BE-82(B) for each separately organized financial services subsidiary or part of a consolidated U.S. enterprise, or a single BE-82(B) representing the sum of all covered transactions by all financial services subsidiaries or parts of the enterprise combined.

(2) Reporters who receive the BE-82 survey from BEA, but that are not reporting data in either the mandatory or voluntary section of any BE-82(B), must return the Exemption Claim, attached to Form BE-82 (A), to BEA.

(ii) [Reserved]

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 806

[Docket No. 000817239-0239-01]

RIN 0691-AA37

#### Direct Investment Surveys: BE-577, Direct Transactions of U.S. Reporter With Foreign Affiliate

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document sets forth proposed rules to amend the reporting requirements for the quarterly BE-577, Direct Transactions of U.S. Reporter With Foreign Affiliate.

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-577 survey is a mandatory survey and is 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 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 should be filed within 45 days. The survey is a cut-off sample survey that obtains data on transactions and positions between U.S.-owned foreign business enterprises and their U.S. parents.

The change proposed by BEA in the reporting requirements to be implemented in these proposed rules is to reduce respondent burden, particularly for small companies, by increasing the exemption level for the survey—the level below which reports are not required—from \$20 million to \$30 million in total assets, sales or gross operating revenues, or net income (positive or negative) of the U.S.-owned foreign business enterprise. Raising the exemption level lowers the number of reports that otherwise would have to be filed, thus reducing respondent burden. BEA is also proposing changes in the content of survey that, on balance, do not affect respondent burden.

**DATES:** Comments on these proposed rules will receive consideration if submitted in writing on or before November 20, 2000.