

the extent of foreign direct investment in a given industry, including a breakdown of total investment in the industry, and any foreign government investment in the industry, by country of the foreign owner, and any other information that the Bureau of Economic Analysis or such designee of the President considers relevant. The industry information provided shall be at the most detailed level available of Standard Industrial Classification, subject to the requirements of section 3104 of this title.

(Pub. L. 94-472, §4, Oct. 11, 1976, 90 Stat. 2060; Pub. L. 95-381, §2, Sept. 22, 1978, 92 Stat. 726; H. Res. 89, Feb. 5, 1979; Pub. L. 97-33, §§1-3, Aug. 7, 1981, 95 Stat. 170; Pub. L. 97-70, Oct. 26, 1981, 95 Stat. 1045; Pub. L. 98-573, title III, §306(b)(3), (4), Oct. 30, 1984, 98 Stat. 3010; Pub. L. 101-533, §6(b), (c), Nov. 7, 1990, 104 Stat. 2348.)

AMENDMENTS

1990—Subsec. (a)(5). Pub. L. 101-533, §6(b), inserted before period at end “, including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownership of such enterprises”.

Subsec. (h). Pub. L. 101-533, §6(c), added subsec. (h).

1984—Subsec. (a)(1), (2). Pub. L. 98-573, §306(b)(4)(A)(ii), inserted “and trade in services” after “international investment” wherever appearing.

Subsec. (a)(3). Pub. L. 98-573, §306(b)(3), (4)(A)(i)-(iii), inserted reference to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and substituted “presentation” for “presentation relating to international investment”, inserted “and trade in services” after “international investment” in two places, and struck out “and” at end.

Subsec. (a)(4), (5). Pub. L. 98-573, §306(b)(4)(A)(iv), (v), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(2)(C). Pub. L. 98-573, §306(b)(4)(B), inserted “(including trade in both goods and services)” after “regarding trade”.

Subsec. (f). Pub. L. 98-573, §306(b)(4)(C), inserted “and trade in services” after “international investment”.

1981—Subsec. (b). Pub. L. 97-70 substituted “year” for “calendar year” in five places in provisions preceding par. (1).

Pub. L. 97-33, §1, substituted “With respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering calendar year 1980, a benchmark survey covering calendar year 1987, and benchmark surveys covering every fifth calendar year thereafter. With respect to United States direct investment abroad, the President shall conduct a benchmark survey covering calendar year 1982, a benchmark survey covering calendar year 1989, and benchmark surveys covering every fifth year thereafter. In conducting surveys pursuant to this subsection, the President shall,” for “With respect to the United States direct investment abroad and foreign direct investment in the United States, the President shall conduct a comprehensive benchmark survey at least once every five years and, for such purpose, shall,” in provisions preceding par. (1).

Subsec. (c)(2). Pub. L. 97-33, §2, substituted “the President shall annually compile currently available data on United States portfolio investment abroad including items such as data on the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and

recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall submit an analysis of such data to the Congress not later than the first day of July of each year” for “the President shall conduct a benchmark survey of United States portfolio investment abroad and, for such purpose, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall complete such survey not later than the end of the five-year period beginning on October 11, 1976. After completion of such survey, the President shall report to the Congress on the feasibility and desirability of conducting, on a periodic basis, additional benchmark surveys of United States portfolio investment abroad. If he determines that such additional benchmark surveys are feasible and desirable, he may conduct such surveys”.

Subsecs. (e) to (g). Pub. L. 97-33, §3, added subsec. (e) and redesignated subsecs. (e) and (f) as (f) and (g), respectively.

1979—Subsec. (a)(3). H. Res. 89 changed name of Committee on International Relations of the House of Representatives to Committee on Foreign Affairs.

1978—Subsec. (d). Pub. L. 95-381 substituted provisions setting forth requirements respecting interim and final reports to Congress, for provisions requiring submission of findings and conclusions to Congress not later than two years after Oct. 11, 1976.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c)(2) of this section relating to submitting an analysis of compiled data to Congress each year, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 30 of House Document No. 103-7.

§ 3104. Rules and regulations

(a) Authorization

The authorities and responsibilities under this chapter may be exercised through such rules and regulations as may be necessary to carry out the purposes of this chapter.

(b) Recordkeeping and reports

Rules or regulations issued pursuant to this chapter may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential to carrying out the surveys and studies to be conducted under this chapter; and

(2) to furnish, under oath, any report containing information which is determined to be necessary to carry out the surveys and studies conducted under this chapter.

When a report under paragraph (2) is furnished under oath, such oath shall be by the officer of such person who is directly responsible for the maintenance and compilation of such information, and shall certify that the report was prepared in accordance with this chapter, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this chapter, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report.

(c) Access to information; limitation

Access to information obtained under subsection (b)(2) of this section shall be available only to officials or employees designated to perform functions under this chapter, including consultants and persons working on contracts awarded pursuant to this chapter. Subject to the limitation of paragraph (1) of this subsection, the President may authorize the exchange between agencies or officials designated by him of information furnished by any person under this chapter as he deems necessary to carry out the purposes of this chapter. Nothing in this section shall be construed to require any Federal agency to disclose to any official exercising authority under this chapter any information or report collected under legal authority other than this chapter where disclosure is prohibited by law. Information collected pursuant to subsection (b)(2) of this section may be used only—

- (1) for analytical or statistical purposes within the United States Government; or
- (2) for the purpose of a proceeding under subsection (e) of this section or under section 3105(b) or (c) of this title.

No official or employee designated to perform functions under this chapter, including consultants and persons working on contracts awarded pursuant to this chapter, may publish or make available to any other person any information collected pursuant to subsection (b)(2) of this section in a manner that the person who furnished the information can be specifically identified except as provided in this section. No person can compel the submission or disclosure of any report or constituent part thereof collected pursuant to this chapter, or any copy of such report or constituent part thereof, without the prior written consent of the person who maintained or furnished such report under subsection (b) of this section and without prior written consent of the customer, where the person who maintained or furnished such report included information identifiable as being derived from the records of such customer.

(d) Access to Bureau of Economic Analysis information

The Bureau of the Census of the Department of Commerce is authorized, for purposes of augmenting and improving the quality of data collected by the Bureau of the Census, to have, upon written request, access to data relating to business enterprises that is collected directly by the Bureau of Economic Analysis for purposes of

this chapter. The Bureau of Labor Statistics of the Department of Labor is authorized, for purposes of augmenting and improving the data collected by the Bureau of Labor Statistics, to have access, upon written request, to selected identification information on business enterprises and data on international services transactions, that is collected directly by the Bureau of Economic Analysis for purposes of this chapter. Officers and employees of the Bureau of the Census and the Bureau of Labor Statistics shall, for purposes of subsection (c) of this section, be deemed to be officials or employees designated to perform functions under this chapter.

(e) Penalty

Any person who willfully violates subsection (c) or (d) of this section shall, upon conviction, be fined not more than \$10,000, in addition to any other penalty imposed by law.

(Pub. L. 94-472, § 5, Oct. 11, 1976, 90 Stat. 2062; Pub. L. 98-573, title III, § 306(b)(5), Oct. 30, 1984, 98 Stat. 3010; Pub. L. 101-533, §§ 6(d), (e), 7(a), Nov. 7, 1990, 104 Stat. 2349.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-533, § 7(a), inserted at end “When a report under paragraph (2) is furnished under oath, such oath shall be by the officer of such person who is directly responsible for the maintenance and compilation of such information, and shall certify that the report was prepared in accordance with this chapter, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this chapter, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report.”

Subsec. (c)(2). Pub. L. 101-533, § 6(e)(1), substituted “subsection (e)” for “subsection (d)”.

Subsec. (d). Pub. L. 101-533, § 6(d)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 101-533, § 6(d)(1), (e)(2), redesignated subsec. (d) as (e) and inserted “or (d)” after “subsection (c)”.

1984—Subsec. (b)(1), (2). Pub. L. 98-573 struck out “international investment” before “surveys”.

§ 3105. Enforcement

(a) Civil penalty for failure to furnish information

Whoever fails to furnish any information required under this chapter, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated under this chapter, shall be subject to a civil penalty of not less than \$2,500, and not more than \$25,000, in a proceeding brought under subsection (b) of this section.

(b) Civil action for failure to furnish information

Whenever it appears that any person has failed to furnish any information required under this chapter, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated under this chapter, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or