

(6) making recommendations for improvement of the coverage, industry classification, and consistency among Federal agencies of their respective surveys.

**(c) Other reviews and reports**

(1) The Comptroller General may, to the extent permitted by law, including section 3104(c) of this title and section 3144 of this title, also review data and information at the Bureau of the Census, the Bureau of Labor Statistics, and the Bureau of Economic Analysis and from time to time report to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress.

(2) The Comptroller General shall, in carrying out paragraph (1), comply with procedures relating to access to and disclosure of data and information established within the Federal statistical agencies referred to in paragraph (1), and maintain any and all individually identifiable data and information at the statistical agency where the information is reviewed.

**(d) Confidentiality; review by other agencies**

In preparing any report under this section, the Comptroller General shall not—

(1) disclose any confidential business information or present any information in a way in which any person, including a business enterprise or establishment, can be identified; or

(2) combine, match, or use in any other way individually identifiable data or information maintained by any of the Federal statistical agencies referred to in subsection (c) with any other individually identifiable confidential data or information that is not collected by such statistical agencies.

Before issuing any such report, the Comptroller General shall in each instance submit the report to the head or heads of the agency or agencies from which confidential or identifiable information described in the preceding sentence was obtained. The agency or agencies concerned shall promptly review the report for the purpose of assuring that the confidentiality of such information and identity is maintained, and for any other purpose, and shall provide the Comptroller General with appropriate comments or other suggestions within 10 working days after receiving the report.

**(e) Right of access**

The access by the Comptroller General to information under this Act shall be in conformity with section 716 of title 31.

(Pub. L. 101-533, § 4, Nov. 7, 1990, 104 Stat. 2346; Pub. L. 104-316, title I, § 111(c), Oct. 19, 1996, 110 Stat. 3833; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This Act and the amendments made by this Act, referred to in subsecs. (b)(4) and (e), is Pub. L. 101-533, Nov. 7, 1990, 104 Stat. 2344, known as the Foreign Direct Investment and International Financial Data Improvements Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the

Code, see Short Title note set out under section 3141 of this title and Tables.

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in section catchline.

1996—Subsec. (a). Pub. L. 104-316, § 111(c)(1), substituted “reports referred to in” for “report required under”.

Subsec. (b). Pub. L. 104-316, § 111(c)(2)(A), (D), substituted “Reports” for “Report” in heading, in introductory provisions substituted “Consistent with the provisions of this section, the Comptroller General may submit” for “Not later than 5 months after each report issued by the Secretary of Commerce under section 3142 of this title, the Comptroller General of the United States shall submit”, and struck out closing provisions which read as follows: “Reports under this subsection shall be issued only with respect to the first 3 reports issued by the Secretary of Commerce under section 3142 of this title.”

Pub. L. 104-316, § 111(c)(2)(B), which directed that subsec. (b) be amended by substituting “Congress reports” for “Congress, a report”, was executed in the introductory provisions by making the substitution for “Congress a report”, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 104-316, § 111(c)(2)(C), substituted “reports issued by the Secretary of Commerce under section 3142 of this title” for “the report of the Secretary of Commerce”.

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.

**§ 3144. Access to information; confidentiality**

**(a) Confidentiality**

(1) Those officers and employees who have access to information under this Act to which the provisions of section 9 of title 13 apply must have been sworn, as provided for in section 23(c) of such title, to observe the limitations imposed by section 9(a) of such title and to be subject to the provisions of section 214 of such title to the same extent as such section applies to officers or employees of the Bureau of the Census.

(2) Only those officers and employees who have sworn to observe the provisions of section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) may have access under this Act to information to which such provisions apply, and such officers and employees are subject to the penalties for improper disclosure of such information provided in section 5(e) of that Act [22 U.S.C. 3104(e)] to the same extent as such section applies to officers or employees designated to perform functions under that Act [22 U.S.C. 3101 et seq.].

(3) Those officers and employees referred to in paragraphs (1) and (2) of this section<sup>1</sup> shall be subject to any other restriction or penalty im-

<sup>1</sup> So in original. Probably should be “subsection”.

posed by law with respect to disclosure of information to which such officers or employees have access under this Act.

**(b) Violations and penalties**

Whoever is in possession of information made available to any department or agency by virtue of this Act or the amendments made by this Act and discloses the information in any form which can be associated with, or otherwise identify, any person, including any business enterprise or establishment, shall be fined not less than \$2,500 nor more than \$25,000 or imprisoned not more than 5 years, or both.

**(c) Unlawful access**

Whoever procures, by fraud, misrepresentation, or other unlawful act, access to information made available to any department or agency by virtue of this Act or the amendments made by this Act shall be fined not less than \$2,500 nor more than \$25,000 or imprisoned not more than 5 years, or both.

**(d) Information immune from process**

Information obtained under this Act shall be immune from legal process and shall not be used as evidence or for any purpose in any Federal, State, or local government action, suit, or other administrative or judicial proceeding except as necessary to enforce requirements imposed by law on the collection of information, to enforce the provisions of subsections (b) and (c).

**(e) Implementation**

(1) The Secretary of Commerce shall be responsible for the implementation of the exchange of information under this Act between the Bureau of the Census and the Bureau of Economic Analysis, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of the Census and the Bureau of Economic Analysis, except that the Secretary shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act [22 U.S.C. 3101 et seq.]. The Bureau of Economic Analysis and the Bureau of the Census shall agree in writing to the data to be shared under this Act.

(2) The Director of the Office of Management and Budget shall be responsible for the implementation of the exchange of information under this Act between the Bureau of Economic Analysis and the Bureau of Labor Statistics, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of Economic Analysis and the Bureau of Labor Statistics, except that the Director shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act [22 U.S.C. 3101 et seq.].

(Pub. L. 101-533, § 8, Nov. 7, 1990, 104 Stat. 2350.)

REFERENCES IN TEXT

This Act or the amendments made by this Act, referred to in text, is Pub. L. 101-533, Nov. 7, 1990, 104

Stat. 2344, known as the Foreign Direct Investment and International Financial Data Improvements Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3141 of this title and Tables.

The International Investment and Trade in Services Survey Act, referred to in subsecs. (a)(2) and (e), is Pub. L. 94-472, Oct. 11, 1976, 90 Stat. 2059, as amended, which is classified generally to chapter 46 (§3101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

**§ 3145. Construction of foreign direct investment and international financial data provisions**

**(a) In general**

Nothing in this Act or the amendments made by this Act shall be construed to require any business enterprise or any of its officers, directors, shareholders, or employees, or any other person, to provide information beyond that which is required before November 7, 1990.

**(b) Implementation**

All departments and agencies implementing this Act and the amendments made by this Act shall, with respect to surveys or questionnaires used in such implementation—

- (1) eliminate questions that are no longer necessary,
- (2) cooperate with one another in order to ensure that questions asked are consistent among the departments and agencies, and
- (3) develop new questions in order to obtain more refined statistics and analyses,

consistent with the purposes of the provisions of law amended by this Act and the Paperwork Reduction Act of 1980.<sup>1</sup>

(Pub. L. 101-533, § 9, Nov. 7, 1990, 104 Stat. 2351.)

REFERENCES IN TEXT

This Act or the amendments made by this Act, referred to in text, is Pub. L. 101-533, Nov. 7, 1990, 104 Stat. 2344, known as the Foreign Direct Investment and International Financial Data Improvements Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3141 of this title and Tables.

The Paperwork Reduction Act of 1980, referred to in subsec. (b), is Pub. L. 96-511, Dec. 11, 1980, 94 Stat. 2812, as amended, which was classified principally to chapter 35 (§3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by Pub. L. 104-13, § 2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

**§ 3146. Definitions**

For purposes of this Act—

(1) the terms “foreign”, “direct investment”, “international investment”, “United States”, “business enterprise”, “foreign person”, and “United States person” have the meanings given those terms in section 3102 of this title; and

(2) the term “foreign direct investment in the United States” means direct investment by foreign persons in any business enterprise that is a United States person.

<sup>1</sup> See References in Text note below.