

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 other place subject to the jurisdiction of the United States, and such court may enter a restraining order or a permanent or temporary injunction commanding such person to furnish such information or to comply with such rule, regulation, order, or instruction, as the case may be, or impose the civil penalty provided in subsection (a) of this section, or both.

#### (c) Criminal penalty for failure to submit information

Whoever willfully fails to submit any information required under this chapter, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated under this chapter, upon conviction, shall be fined not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both.

(Pub. L. 94-472, §6, Oct. 11, 1976, 90 Stat. 2063; Pub. L. 101-533, §7(b), Nov. 7, 1990, 104 Stat. 2349.)

#### Editorial Notes

##### AMENDMENTS

1990—Subsec. (a). Pub. L. 101-533 substituted "shall be subject to a civil penalty of not less than \$2,500, and not

more than \$25,000," for "may be subject to a civil penalty not exceeding \$10,000".

### § 3106. Use of experts and administrative support services

#### (a) Compensation and travel expenses

Any official designated by the President to carry out this chapter may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5. Persons so employed shall receive compensation at a rate not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services in conjunction with the provisions of this chapter, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b)<sup>1</sup> of title 5 for persons in the Government service employed intermittently.

#### (b) Use of available Federal agency services, equipment, personnel, and facilities

Any official designated by the President to carry out this chapter may use, on a reimbursable basis when appropriate (as determined by the President), the available services, equipment, personnel, and facilities of any agency or instrumentality of the United States Government.

(Pub. L. 94-472, §7, Oct. 11, 1976, 90 Stat. 2064.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (a), was amended generally by Pub. L. 94-22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

### § 3107. Consultations; creation of independent public advisory committees

Officials performing functions pursuant to this chapter shall secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community and may, where appropriate, create such independent public advisory committees as are necessary to carry out the purposes of this chapter.

(Pub. L. 94-472, §8, Oct. 11, 1976, 90 Stat. 2064; Pub. L. 95-381, §3, Sept. 22, 1978, 92 Stat. 726; Pub. L. 97-33, §4, Aug. 7, 1981, 95 Stat. 171.)

#### Editorial Notes

##### AMENDMENTS

1981—Pub. L. 97-33 struck out designation "(a)" before "Officials performing functions" and struck out subsec. (b) which provided that the President review the results of studies and surveys conducted pursuant to this chapter and report annually to the Committee on International Relations [Foreign Affairs] of the House of Representatives and the appropriate committees of the Senate on any trends or developments which might have had national policy implications and which in the President's opinion warranted the review of the respective committees.

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

1978—Subsec. (b). Pub. L. 95-381 substituted references to President, for references to Council on International Economic Policy.

#### Executive Documents

##### EXECUTIVE ORDER NO. 11962

Ex. Ord. No. 11962, Jan. 19, 1977, 42 F.R. 4323, which established the President's Advisory Board on International Investment, was revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, formerly set out as a note under section 14 of Appendix of Title 5, Government Organization and Employees.

#### § 3108. Authorization of appropriations

To carry out this chapter, there are authorized to be appropriated \$4,400,000 for the fiscal year ending September 30, 1980, \$4,500,000 for the fiscal year ending September 30, 1981, \$4,000,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for any subsequent fiscal years.

(Pub. L. 94-472, §9, Oct. 11, 1976, 90 Stat. 2064; Pub. L. 95-381, §1, Sept. 22, 1978, 92 Stat. 726; Pub. L. 96-72, §23(a), Sept. 29, 1979, 93 Stat. 536; Pub. L. 97-33, §5, Aug. 7, 1981, 95 Stat. 171.)

#### Editorial Notes

##### AMENDMENTS

1981—Pub. L. 97-33 inserted provisions authorizing appropriations of \$4,000,000 for fiscal year ending Sept. 30, 1982, and such sums as might be necessary for any subsequent fiscal years.

1979—Pub. L. 96-72 substituted provisions authorizing appropriations of \$4,400,000 for fiscal year ending Sept. 30, 1980, and \$4,500,000 for fiscal year ending Sept. 30, 1981, for provisions authorizing appropriations of \$4,000,000 for fiscal year ending Sept. 30, 1979.

1978—Pub. L. 95-381 increased authorization from \$1,000,000 to \$4,000,000, and struck out provisions authorizing appropriation of \$1,000,000 for fiscal year ending Sept. 30, 1978.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-72, §23(b), Sept. 29, 1979, 93 Stat. 536, which provided that the amendment made to this section by Pub. L. 96-72 would take effect on Oct. 1, 1979, was repealed by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

##### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-381, §4, Sept. 22, 1978, 92 Stat. 726, provided that: "The amendment made by the first section of this Act [amending this section] shall take effect on October 1, 1978."

#### CHAPTER 46A—FOREIGN DIRECT INVESTMENT AND INTERNATIONAL FINANCIAL DATA

##### Sec.

- 3141. Congressional findings.
- 3142. Report by Secretary of Commerce.
- 3143. Reports by Government Accountability Office.
- 3144. Access to information; confidentiality.
- 3145. Construction of foreign direct investment and international financial data provisions.
- 3146. Definitions.

#### § 3141. Congressional findings

The Congress makes the following findings:

(1) The United States Government collects substantial amounts of information from foreign owned or controlled business enterprises or affiliates operating in the United States.

(2) Additional analysis and presentation of this information is desirable to assist the public debate on the issue of foreign direct investments in the United States.

(3) Information collected from foreign owned or controlled firms by the Bureau of Economic Analysis has serious analytical limitations because it is largely collected on an "enterprise" basis that does not permit an adequate analysis by industry groupings.

(4) Statistical and analytic comparisons of the performance of foreign owned or controlled businesses operating within the United States with other business enterprises operating within the same industry can be accomplished under sections 3101(b) and 3104(c) of this title, and under Executive Order Numbered 11961, without the need to collect additional information, by sharing with other authorized Government agencies the employer identification numbers maintained by the Bureau of Economic Analysis.

(5) Public disclosures of confidential business information collected by the United States Government relating to international direct investment flows could cause serious damage to the accuracy of the statistical data base.

(6) The Government Accountability Office may have limited access to Government data on foreign direct investment.

(Pub. L. 101-533, §2, Nov. 7, 1990, 104 Stat. 2344; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

#### Editorial Notes

##### REFERENCES IN TEXT

Executive Order Numbered 11961, referred to in par. (4), is set out as a note under section 3101 of this title.

##### AMENDMENTS

2004—Par. (6). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Pub. L. 101-533, §1, Nov. 7, 1990, 104 Stat. 2344, provided that: "This Act [enacting this chapter and section 401 of Title 13, Census, and amending sections 3101 and 3103 to 3105 of this title and section 9 of Title 13] may be cited as the 'Foreign Direct Investment and International Financial Data Improvements Act of 1990'."

#### § 3142. Report by Secretary of Commerce

##### (a) Annual report on foreign direct investment in United States

Not later than 6 months after November 7, 1990, and not later than the end of each 1-year period occurring thereafter, the Secretary of Commerce shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Trans-