

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

[Docket No. 020813189-2330-02]

RIN 0691-AA44

**Direct Investment Surveys: BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2002****AGENCY:** Bureau of Economic Analysis, Commerce.**ACTION:** Final rule.**SUMMARY:** This final rule revises regulations for the BE-12, Benchmark Survey of Foreign Direct Investment in the United States.

The BE-12 survey is mandatory and is conducted once every 5 years by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. The benchmark survey will be conducted for 2002. BEA will send the survey to potential respondents in February of the year 2003; responses will be due by May 31, 2003. The prior benchmark survey was conducted for 1997. The benchmark survey covers virtually the entire universe of foreign direct investment in the United States in terms of value, and is BEA's most comprehensive survey of such investment in terms of subject matter.

The revised rule raises the reporting threshold on the BE-12(SF) short form and the BE-12 Bank form from \$3 million to \$10 million; directs that only nonbank majority-owned U.S. affiliates of foreign companies report on the BE-12(LF) long form; raises the reporting threshold on the BE-12(LF) long form from \$100 million to \$125 million; and directs bank holding companies to file a fully consolidated report, including all nonbank operations, on the BE-12 Bank form. (Previously, the nonbanking operations were reported on a separate BE-12(LF) long form or BE-12(SF) short form.) These changes will reduce respondent burden, especially for small companies and bank holding companies.

**DATES:** This final rule will be effective February 12, 2003.**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:** On September 12, 2002, the Bureau of

Economic Analysis (BEA) published in the **Federal Register** (67 FR 57767) a notice of proposed rulemaking setting forth revised reporting requirements for the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2002. No comments on the proposed rule were received. Thus, this final rule is the same as the proposed rule, except for minor language changes to remove a possible source of ambiguity with respect to the due date for filing Form BE-12(X), report for claiming exemption from filing a BE-12(LF) long form, BE-12 (SF) short form, or BE-12 Bank form.

This final rule amends 15 CFR 806.17 to set forth revised reporting requirements for the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—2002. The Bureau of Economic Analysis, 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), hereinafter, "the Act."

Section 4(b) of the Act requires that with respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering year 1980, a benchmark survey covering year 1987, and benchmark surveys covering every fifth year thereafter. In conducting surveys (of U.S. direct investment abroad and foreign direct investment in the United States) pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible identify the location, nature, and magnitude of, and changes in the total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates; information on the balance sheet of parents and affiliates and related financial data, income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and related information regarding trade (including trade in both goods and services) between a parent and each of its affiliates and between each parent or affiliate and any other person; collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level; obtain information on tax payments by parents and affiliates by country; and determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of

technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA. The benchmark survey is a census; it covers virtually the entire universe of foreign direct investment in the United States in terms of value, and is BEA's most comprehensive survey of such investment in terms of subject matter. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person (foreign parent) of 10 percent or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. affiliates and their foreign parent groups (which are defined to include all foreign parents and foreign affiliates of foreign parents). The data are needed to measure the size and economic significance of foreign direct investment in the United States, to measure changes in such investment, and to assess its impact on the U.S. economy. Such data are generally found in enterprise-level accounting records of respondent companies. The data are disaggregated by industry of U.S. affiliate, by country and industry of foreign parent or ultimate beneficial owner, and, for selected items, by State.

The data will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the foreign direct investment position in the United States and of the operations of the U.S. affiliates of foreign companies. Data from the benchmark survey on U.S. affiliates' employee compensation, profits, interest receipts and expenses, depreciation, and income and other taxes are used by BEA to compute U.S. affiliates' gross product or value added. The estimates are used to measure U.S. affiliates' share of U.S. gross domestic product and to evaluate affiliates' profitability and productivity. Data on employment by affiliates are used to