

FEDERAL RESERVE BANK OF DALLAS
DALLAS, TEXAS 75222

Circular No. 68-14
January 18, 1968

**To all Banks, Nonbank Financial
Institutions and Other Firms Addressed
in the Eleventh Federal Reserve District:**

Under authority of Executive Order No. 11387 published in the Federal Register on January 3, 1968, the Department of Commerce has issued regulations relating to foreign direct investments by persons in the United States. These regulations commence on the next page.

Two additional documents are also reproduced on the following pages which deal with the foreign direct investment program; these are:

(a) U.S. Department of Commerce Order 184-A, dated January 1, 1968, which establishes the Office of Foreign Direct Investments to carry out the provisions of the Executive Order; and

(b) Instructions for Specific Authorizations or Exemptions Pursuant to Section 1000.801 of Foreign Direct Investment Regulations, issued by said Office of Foreign Direct Investments.

For your further information and guidance, we are also enclosing copies of documents relating to banks and financial institutions certified by the Board of Governors as being subject to the Federal Reserve foreign restraint program and a copy of the letter transmitted to the Secretary of Commerce detailing such certification. Banks and financial institutions that are reporting properly under the requirements of the Federal Reserve foreign credit restraint program are exempt from the regulations recently issued by the Secretary of Commerce; however, we believe that you will wish to be informed of both programs in order to answer questions of customers and others.

Yours very truly,

Watrous H. Irons

President

Enclosures

RULES AND REGULATIONS

Title 15—COMMERCE AND FOREIGN TRADE

Chapter X—Office of Foreign Direct Investments, Department of Commerce

PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

Foreign Direct Investment by Persons in United States

The regulations set out below implement Executive Order 11387, January 1, 1968, governing foreign direct investments. Since a foreign affairs function of the United States is involved, the requirements of 5 U.S.C. 553 are not applicable. In any event, because of the urgency of the present situation relating to the international balance of payments and the desirability of immediate action by the Government of the United States, it is hereby found that notice and public procedures prior to the promulgation of these regulations are impracticable and contrary to the public interest. For the same reasons, it is found that these regulations must be made effective immediately. The reporting and record-keeping requirements provided therein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, as amended.

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AUTHORITY: The provision of this Part 1000 issued under sec. 5 of the Act of October 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 1000.101 Relation of this part to other laws and regulations.

(a) This part is independent of Title 31 CFR, Chapter V. The prohibitions contained in this part are in addition to the prohibitions contained in said Chapter V. No license contained in or issued pursuant to said Chapter V shall be deemed to authorize any transaction prohibited by this part, nor shall any license or authorization issued pursuant to any other provision of law be deemed to authorize any transaction so prohibited.

(b) No authorization or exemption contained in or issued pursuant to this part shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any law or statute other than 12 U.S.C. 95a, as amended, or any proclamation, order, or regulation other than those contained in or issued pursuant to Executive Order 11387 or this part.

(c) No authorization or exemption contained in or issued pursuant to this part shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any part of Title 31 CFR.

Subpart B—Prohibitions

§ 1000.201 Transfers of capital to affiliated foreign nationals involving foreign direct investments.

(a) Except as specifically authorized by the Secretary of Commerce (hereinafter referred to as the Secretary) by means of regulations, rulings, instructions, authorizations, licenses, waivers, or exemptions or otherwise, all of the following transactions directly or indirectly by or on behalf of or for the benefit of a

direct investor are prohibited on or after the effective date, if any such transaction involves a direct or indirect transfer of capital to or within any foreign country directly or indirectly to or for the account of or for the benefit of any affiliated foreign national of such direct investor:

- (1) Any transfer of credit;
- (2) Any payment between, by, through, or to any banking institution or banking institutions wheresoever located;
- (3) Any transaction in foreign exchange;
- (4) Any direct or indirect acquisition of, or any holding, transfer of or dealing in, or any exercise of any right, power or privilege with respect to any property located in a foreign country.

(b) All transactions prohibited by section 1 of Executive Order 11387 which are not prohibited by this part are hereby authorized; provided, however, that any person failing to make timely compliance with the reporting requirements of Subpart F of this part is ineligible thereafter to avail itself of this general authorization.

(c) To the extent that may be delineated from time to time by the Board of Governors of the Federal Reserve System, nothing in this part shall apply to any bank or other financial institution certified by the Board as being subject to the Federal Reserve Foreign Credit Restraint Programs, or to any program instituted by the Board under Section 2 of Executive Order 11387.

§ 1000.202 Repatriation of direct investment earnings.

(a) Except as specifically authorized by the Secretary by means of regulations, rulings, instructions, authorizations, licenses, exemptions, waivers, or otherwise, each direct investor is hereby required to transfer, not less often than once a year, from Schedule A countries, or nationals thereof, to an account owned by such direct investor denominated in U.S. dollars at a domestic bank, an amount representing earnings from affiliated foreign nationals in such countries which is not less than the greater of:

(1) The same percentage of total earnings during each year of affiliated foreign nationals in all Schedule A countries attributable to such direct investor's interest therein as the percentage of such total earnings so attributable which was repatriated to the United States during the years 1964, 1965, and 1966, inclusive; or

(2) That portion of total earnings during each year of affiliated foreign nationals in all Schedule A countries attributable to such direct investor's interest therein that exceeds the amount of such earnings, reinvestment of which may occur within the limits of direct investment authorized in such countries for that year in accordance with § 1000.504(a)(1).

(b) Except as specifically authorized by the Secretary by means of regulations, rulings, instructions, authorizations, licenses, exemptions, waivers, or otherwise, each direct investor is hereby required to transfer not less often than once a year

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from Schedule B countries, or nationals thereof, to an account owned by such direct investor denominated in U.S. dollars at a domestic bank, an amount representing earnings from affiliated foreign nationals in such countries which is not less than the greater of:

(1) The same percentage of total earnings during each year of affiliated foreign nationals in all Schedule B countries attributable to such direct investor's interest therein as the percentage of such total earnings so attributable which was repatriated to the United States during the years 1964, 1965, and 1966, inclusive; or

(2) That portion of total earnings during each year of affiliated foreign nationals in all Schedule A countries attributable to such direct investor's interest therein that exceeds the amount of such earnings, reinvestment of which may occur within the limits of direct investment authorized in such countries for that year in accordance with § 1000.504(a)(2).

(c) Except as specifically authorized by the Secretary by means of regulations, rulings, instructions, authorizations, licenses, exemptions, waivers, or otherwise, each direct investor is hereby required to transfer not less often than once a year from Schedule C countries, or nationals thereof, to an account owned by such direct investor denominated in U.S. dollars at a domestic bank an amount representing earnings from affiliated foreign nationals in such countries which is not less than the greater of:

(1) The same percentage of total earnings during each year of affiliated foreign nationals in all Schedule C countries attributable to such direct investor's interest therein as the percentage of such total earnings so attributable which was repatriated to the United States during the years 1964, 1965, and 1966, inclusive; or

(2) That portion of total earnings during each year of affiliated foreign nationals in all Schedule C countries attributable to such direct investor's interest therein that exceeds 35 percent of the average of direct investment by the direct investor in all Schedule C countries during the years 1965 and 1966 inclusive, all in conformity with § 1000.504(a)(3).

(d) In making computations under this section, earnings shall, where appropriate, be computed and/or prorated and other proper adjustments made in accordance with accounting principles generally accepted in the United States and consistently applied; *Provided*, That the Secretary shall have the right in his discretion to disapprove any such accounting principles determined by him to be inconsistent with the purpose of this part and to prescribe such principles as he may deem appropriate to carry out the purposes of this part.

(e) Repatriation of earnings under this section is not required where the reinvestment of the entire amount of such earnings is authorized by § 1000.503.

§ 1000.203 Liquid foreign balances of direct investors.

(a) Except as specifically authorized by the Secretary by means of regulations, rulings, instructions, authorizations, licenses, exemptions, waivers or otherwise, each direct investor is hereby required, on or before June 30, 1968, to reduce the amount of all bank deposits and other short-term financial assets held by or for the account or for the benefit of such direct investor in all foreign countries designated in each of Schedules A, B, and C by persons other than affiliated foreign nationals to an amount not in excess of the average end-of-month amounts of the same so held by or for the account of or for the benefit of such direct investor during 1965 and 1966 inclusive; to transfer on or before such date funds resulting from such reductions to an account owned by such direct investor denominated in U.S. dollars at a domestic bank; and, thereafter, to transfer funds to an account owned by such direct investor denominated in U.S. dollars at a domestic bank in amounts sufficient to limit the amount of such deposits and assets at the end of any month to such reduced amount of such bank deposits and other short-term financial assets.

(b) For the purposes of this section the term "short-term financial assets" includes, but not by way of limitation: Negotiable and readily transferable commercial and financial instruments, including obligations of foreign governments.

§ 1000.204 Evasion.

Anything in this part to the contrary notwithstanding, any transaction for the purpose of, or which has the effect of, evading or avoiding any of the provisions set forth in this part may be disregarded in whole or in part for purposes of measuring compliance with the provisions of this part.

Subpart C—General Definitions

§ 1000.301 Foreign country.

The term "foreign country" includes, but not by way of limitation:

(a) The state and the government of any foreign country as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof.

(b) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which constitutes such foreign country.

(c) Any person to the extent that such person is, or to the extent that there is reasonable cause to believe that such person is, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing.

(d) Any territory which is controlled or occupied by the military, naval or police forces or other authority of a foreign country.

§ 1000.302 Foreign national.

The terms "foreign national" and "national" of a foreign country shall include:

(a) A subject or citizen of, or any person domiciled or resident in, a foreign country.

(b) Any partnership, association, corporation, trust, estate, or other organization outside the United States organized under the laws of, or which has its principal place of business in, a foreign country, or any partnership, association, corporation, trust, estate, or other organization outside the United States which is controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, is owned or controlled by, directly or indirectly, a foreign country or one or more foreign nationals thereof.

(c) Any subsidiary, branch, division, or other subpart outside the United States, regardless of the place or organization, of a person within the United States shall be considered a foreign national if the same is engaged in trade or business in a foreign country.

(d) Any person to the extent that such person is acting or purporting to act directly or indirectly for the benefit or on behalf of any national of a foreign country.

(e) Any other person which there is reasonable cause to believe is a "foreign national" as defined in this section. The Secretary retains full power to determine that any person is or shall be deemed to be a "foreign national" within the meaning of this section, and to specify the foreign country of which such person is or shall be deemed to be a national.

§ 1000.303 Nationals of more than one foreign country.

(a) Any person who by virtue of any provision in this part is a national of more than one foreign country shall be deemed to be a national of each of such foreign countries.

(b) In any case in which a person is a national of two or more foreign countries, an authorization or exemption with respect to nationals of one of such foreign countries shall not be deemed to apply to such person unless an authorization or exemption of equal or greater scope is outstanding with respect to such person as a national of each other foreign country.

§ 1000.304 Direct investor.

The term "direct investor" means any person within the United States who directly or indirectly owns or acquires:

(a) Ten percent or more of the total combined voting power of any foreign national; or

(b) The right or power to receive, control, or otherwise enjoy 10 percent or more of the earnings, receipts, income or profits of any foreign national; or

(c) The right or power to receive, control or otherwise direct the disposition of 10 percent or more of the assets of any foreign national upon the liquidation, termination, or winding up thereof.

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§ 1000.305 Affiliated foreign national.

The term "affiliated foreign national" means any foreign national in which a person within the United States is a direct investor.

§ 1000.306 Direct investment.

The term "direct investment" means:
(a) The act of making a transfer of capital or the capital so transferred; and
(b) The share of a direct investor in reinvested earnings of an affiliated foreign national or the accrual thereof.

§ 1000.307 Person.

The term "person" means an individual, partnership, association, trust, estate, corporation, or other organization. For purposes of § 1000.304 and wherever appropriate in the context, a person within the United States shall mean and include all members of an affiliated or associated group within the United States.

§ 1000.308 Transfer.

The term "transfer" means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the appointment of any agent, trustee, or other fiduciary; the creation or transfer of any lien; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

§ 1000.309 Property; property interest.

The terms "property" and "property interest" include any property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 1000.310 Interest.

The term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

§ 1000.311 Banking institution.

The term "banking institution" shall include any person engaged primarily or incidentally in the business of banking, or granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and seller thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or any broker; and, each principal, agent, home office, branch, or correspondent of any person so engaged shall

be regarded as a separate "banking institution".

§ 1000.312 Transfer of capital.

The term "transfer of capital" shall mean a transfer of capital, directly or indirectly, by or on behalf of, or for the benefit of, a direct investor directly or indirectly to or on behalf of, or for the benefit of an affiliated foreign national including but not by way of limitation:

(a) A net contribution to the capital of an affiliated foreign national;

(b) The acquisition of an interest in, or an increase in net interest in, an affiliated foreign national;

(c) The acquisition of an obligation of an affiliated foreign national, regardless of the maturity date of the obligation, to the extent the principal amount of all such obligations exceeds that of obligations of the direct investor acquired by such foreign national;

(d) A net increase in loans or advances upon open account to an affiliated foreign national;

(e) Any transfer to any other person, wheresoever located, in satisfaction of an obligation of a direct investor incurred as a result of (1) a guarantee of an obligation of an affiliated foreign national or (2) the assumption of a liability of an affiliated foreign national.

§ 1000.313 Reinvested earnings.

The term "reinvested earnings" shall mean the earnings of an affiliated foreign national available at any time for distribution and not so distributed.

§ 1000.314 Authorization and exemption.

Except as otherwise specified, the terms "authorization" and "exemption" shall mean, respectively, any authorization or exemption contained in or issued pursuant to this part.

§ 1000.315 General authorization and exemption.

The terms "general authorization" and "general exemption" mean those authorizations and exemptions, the terms of which are set forth in this part.

§ 1000.316 Specific authorization and exemption.

The terms "specific authorization" and "specific exemption" mean those authorizations and exemptions issued pursuant to this part but not set forth in this part.

§ 1000.317 Domestic bank.

The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a foreign national: Any bank or trust company incorporated under the banking laws of the United States or of any State, territory, insular possession, the Commonwealth of Puerto Rico, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any State, territory, insular possession, the Commonwealth of Puerto Rico, or district of the United States. The Secretary may also authorize any other banking institution to be treated as a "domestic bank" for

the purpose of this definition or for the purpose of any or all sections of this part.

§ 1000.318 United States.

The term "United States" means the United States and all areas under the jurisdiction or authority thereof.

§ 1000.319 Schedule A, B, C, countries.

(a) Schedule A countries are all foreign countries designated as less developed countries in the Executive order, as from time to time in force, issued under section 4916 of the Internal Revenue Code.

(b) Schedule B countries are such other foreign countries as the Secretary may determine to be developed countries in which a high level of capital inflow is essential for the maintenance of economic growth and financial stability, and where those requirements cannot be adequately met from non-U.S. sources. The following countries are hereby determined to fall in this category: Abu Dhabi, Australia, The Bahamas, Bahrain, Bermuda, Canada, Hong Kong, Iran, Iraq, Ireland, Japan, Kuwait, Kuwait-Saudi Arabia Neutral Zone, Libya, New Zealand, Qatar, Saudi Arabia, and the United Kingdom.

(c) Schedule C countries are all foreign countries not included as Schedule A or B countries.

(d) The Secretary may in his discretion, from time to time, transfer any foreign country from any one of the Schedules to another.

§ 1000.320 Effective date.

The term "effective date" means 12:00 noon eastern standard time of January 1, 1968.

§ 1000.321 Year.

Unless otherwise specified, the term "year" or "portion of a year" means a calendar year or a portion thereof.

§ 1000.322 Within the United States.

(a) As applied to any person the term "within the United States", includes:

(1) A person, wheresoever located, who is a resident of the United States;

(2) A person actually within the United States; and

(3) A corporation organized under the laws of the United States or of any State, territory, possession, District of Columbia, or the Commonwealth of Puerto Rico.

(b) A subsidiary, branch, division or other subpart of a foreign national which constitutes a permanent establishment within the United States shall be considered a person within the United States for purposes of this part except that nothing herein contained shall limit a bona fide transfer of capital in the ordinary and customary course of business by such subsidiary, branch, division or other subpart to and for the benefit of its parent organization.

Subpart D—Interpretations

§ 1000.401 Reference to amended sections.

Reference to any section of this part or to any regulation, ruling, order, instruction, direction, authorization, license or exemption issued pursuant to

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this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 1000.402 Effect of amendment of sections of this part or of other orders, etc.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, authorization, license, or exemption issued by or under the direction of the Secretary pursuant to 12 U.S.C. 95a, as amended, shall not unless otherwise specifically provided be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such section, order, regulation, ruling, instruction, authorization, license, or exemption shall continue in effect and may be enforced as if such amendment, modification, or revocation had not been made.

§ 1000.403 Transactions between principal and agent.

A transaction between any person within the United States and any principal, agent, home office, branch, subsidiary, affiliate, division, subpart, or correspondent outside the United States of such person is a transaction prohibited by § 1000.201 to the same extent as if the parties to the transaction had no such relationship.

§ 1000.404 Distribution, apportionment or allocation of earnings.

In any case of two or more organizations, trades or businesses owned or controlled directly or indirectly by the same interests, the Secretary may distribute, apportion or allocate earnings or any component of earnings, if he determines that such distribution, apportionment, or allocation is necessary or appropriate clearly or properly to reflect earnings attributable to a direct investor's interest in affiliated foreign nationals or otherwise to carry out the purposes of this part.

Subpart E—Authorizations or Exemptions

§ 1000.501 Effect of subsequent authorization or exemption.

No authorization or exemption contained in this part, or issued by or under the direction of the Secretary pursuant to this part, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such authorization or other exemption specifically so provides.

§ 1000.502 Exclusion from authorization or exemption.

The Secretary reserves the right to exclude from the operation of any authorization or exemption or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such ac-

tion shall be binding upon all persons receiving actual notice or constructive notice thereof.

§ 1000.503 Direct investment not exceeding \$100,000.

During any year direct investment by any direct investor in all foreign countries, not amounting in the aggregate to more than \$100,000, are hereby authorized.

§ 1000.504 Transfers of capital.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the following provisions of this section shall apply to aggregate direct investment in excess of \$100,000 in any year without regard to the provisions of § 1000.503.

(1) Transfers of capital during any year to any Schedule A country or national thereof are authorized provided that such transfers do not result in direct investment during that year exceeding 110 percent of the average of direct investment by the direct investor in all Schedule A countries, or nationals thereof, during the years 1965 and 1966 inclusive.

(2) Transfers of capital during any year to any Schedule B country or national thereof are authorized provided that such transfers do not result in direct investment during such year exceeding 65 percent of the average of direct investment by the direct investor in all Schedule B countries, or nationals thereof, during the years 1965 and 1966 inclusive.

(3) Except as authorized in this part, a moratorium exists on transfers of capital during any year to any Schedule C country or national thereof. Reinvestment during any year of a direct investor's share of earnings in Schedule C countries is authorized provided that the aggregate of such reinvested earnings in Schedule C countries, in conformity with the provisions of § 1000.202, does not result in direct investment in that year exceeding 35 percent of the average of direct investment by the direct investor in all Schedule C countries or nationals thereof during the years 1965 and 1966 inclusive.

(b) In determining whether a transfer of capital during any year is authorized by this section, both the amount of direct investment during that year and the average amount of direct investment during the years 1965 and 1966 inclusive, shall be calculated by deducting such portion of net borrowings by the direct investor from foreign nationals other than affiliated foreign nationals as is or was expended in such direct investment: *Provided, however,* That amounts so borrowed evidenced by short term instruments with an original maturity of less than 12 months which are readily marketable in the ordinary course of business shall not be so deducted.

(c) The Secretary reserves the right at any time to exclude any direct investor from any or all of the privileges of this section.

§ 1000.505 Transfer of capital between foreign countries.

Nothing contained in this part shall prohibit a transfer of capital between foreign nationals outside the United States who are nationals of the same foreign country or of two or more foreign countries in the same Schedule contained in § 1000.319. A transfer of capital between foreign nationals outside the United States who are nationals of countries listed in different Schedules is hereby authorized except that if the transferor or transferee foreign national is an affiliated foreign national acting by, or on behalf of or for the benefit of a direct investor:

(a) A transfer from a national of a Schedule C or Schedule B country to a national of a Schedule A country, or from a national of a Schedule C country to a national of a Schedule B country is authorized only to the extent that the amount of the transfer, taken together with other authorized transfers of such direct investor, does not exceed in any year the limits authorized with respect to such direct investor in § 1000.504 of this part; and

(b) A transfer from a national of a Schedule A or B country to a national of a Schedule C country, or from a national of a Schedule A country to a national of a Schedule B country is not authorized.

Subpart F—Records and Reports

§ 1000.601 Records.

Every person subject to the provisions of this part shall keep in the United States a full and accurate record of each transaction engaged in by it which is subject to the provisions of this part, regardless of whether such transaction is effected pursuant to authorization or otherwise, and of every other transaction between such person and an affiliated foreign national. Such records shall be available for examination for at least 2 years after the date of the transactions to which they relate.

§ 1000.602 Reports.

(a) Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary, complete information relative to any transaction with respect to which records are required to be kept under this part. The Secretary may require that such reports include the production of any books of account, contract, letters, or other papers, connected with any such transaction or property, in the custody or control of the persons required to make such reports. Complete information with respect to transactions may be required either before or after such transactions are completed. The Secretary may, through any person or agency, investigate any such transaction or property or any violation of the provisions of this part, regardless of whether any report has been required or filed in connection therewith.

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(b) The following reports are required to be filed by direct investors with the Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230;

(1) Form CDFDI—101, Based Period Report. This report is to be filed by March 15, 1968, or on the date its first quarterly report is due, whichever is earlier.

(2) Form CDFDI—102, Quarterly Report. This report must be filed within 45 days from the close of each quarter of a year.

Subpart G—Penalties

§ 1000.701 Penalties.

(a) Attention is directed to 12 U.S.C. 95a, which provides in part:

Whoever willfully violates any of the provisions of this section or of any license, order, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this section the term "person" means an individual, partnership, association, or corporation.

This section is applicable to violations of any provision of this part and to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary pursuant to this part or otherwise under such section.

(b) Attention is also directed to 18 U.S.C. 1001, which provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both.

Subpart H—Procedures

§ 1000.801 Applications for specific authorizations and exemptions.

Transactions subject to the prohibitions contained in this part which are not authorized by general authorization may be effected only under specific authorization. Persons subject to the requirements of this part may be exempted from complying with any particular requirement imposed by this part only through a specific exemption.

(a) *General procedure.* Applications for specific authorizations to engage in any transaction prohibited, or for specific exemptions to be exempted or to deviate from any particular requirement imposed, by or pursuant to this part, are to be filed in duplicate with the Director, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230. Any person affected by the provisions contained in this part may file such an application.

(b) *Information to be supplied.* Applicants must supply all relevant information. Such documents as may be relevant shall be attached to each application as a part thereof, except that documents previously filed with the Director, may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as may be requested by the Director. An applicant or other party in interest may furnish additional information or present views concerning the application at any time before a decision has been rendered. Arrangements for oral presentation should be made with the Director.

(c) *Decision.* Prompt notice of action taken on an application shall be communicated to the applicant. Whenever an application is denied, such notice shall be accompanied by a simple statement of the grounds therefor. The decision on the application shall constitute final agency action.

(d) *Effect of denial.* The denial of an application does not preclude the matter from being reopened at the request of the applicant, or the filing of a new application.

(e) *Terms and conditions of specific licenses and exemptions.* Any specific license or exemption is issued subject to all the terms, conditions and special requirements contained therein.

§ 1000.802 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, exemptions, authorizations, instructions, orders, or forms issued thereunder may be amended, modified, or revoked at any time. In general, the public interest requires that such amendments, modifications, or revocations be made without prior notice.

§ 1000.803 Rules governing availability of information.

(a) The information, records, and other material of the Office of Foreign Direct Investments required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the provisions of Department Order 64 of the Secretary of Commerce (32 F.R. 9643 of July 4, 1967).

(b) Forms CDFDI—101 and 102 and any other forms used in connection with the Foreign Direct Investment Regulations may be obtained in person from or by writing to the Director, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230.

§ 1000.804 Delegations.

Any function, duty or authority under these regulations may be performed or exercised by the Secretary or by any person, agency or instrumentality designated by him (directly or indirectly by one or more redelegations of authority) and the term "Secretary" as used in these regulations shall include any such designated person, agency, or instrumentality, as applicable.

Signed at Washington, D.C., this 1st day of January 1968.

A. B. TROWBRIDGE,
Secretary of Commerce.

[F.R. Doc. 68-114; Filed, Jan. 1, 1968;
6:44 p.m.]

NOTICES

DEPARTMENT OF COMMERCE

Office of the Secretary

[Department Order 184-A]

ESTABLISHMENT OF OFFICE OF FOREIGN DIRECT INVESTMENTS

SECTION 1. Purpose. The purpose of this order is to establish the Office of Foreign Direct Investments, delegate authority to its Director, and describe the general functions of the Office.

SEC. 2. General—01 The Office of Foreign Direct Investments (hereinafter called the "Office") is hereby established as a primary operating unit of the Department of Commerce pursuant to the authority vested in the Secretary of Commerce by Executive Order 11387, dated January 1, 1968, and otherwise by law.

.02 The Office shall be headed by a Director (hereinafter called the "Director") who shall report and be responsible to the Secretary of Commerce (hereinafter called the "Secretary"). The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence, and by such staff as the Director may require to perform the functions and authorities and discharge the responsibilities set forth herein.

SEC. 3. Delegation of authority—01 Pursuant to the authority vested in the Secretary by Executive Order 11387 and

otherwise by law, and subject to such policies, limitations and directions as the Secretary may prescribe, the Director is hereby delegated the functions, authorities, and responsibilities given to the Secretary under said Executive order governing certain capital transfers abroad, and under such other Executive orders, laws, regulations, and actions relating thereto as the Secretary shall determine are applicable.

.02 The Director may redelegate, as may be necessary in their performance, any functions, authorities, or responsibilities conferred upon him by this order to any other agency, instrumentality, or official of the United States, subject to such conditions and limitations as the Secretary may deem desirable.

SEC. 4. General functions—01 The Director shall, with respect to the functions, authorities, and responsibilities delegated to him by this order:

a. Provide advice and assistance to the Secretary in such matters.

b. Carry out the provisions of Executive Order 11387, prescribe definitions for any terms used therein, make general or specific exemptions, exceptions, or waivers to the prohibitions thereof, issue such rules and regulations, orders, rulings, licenses, and instructions, and take such other actions, as he determines to be necessary or appropriate to carry out the purposes of said Executive order.

c. Consult and collaborate as necessary and appropriate with other officers and units of the Department, officials of

other Federal agencies, including the Secretaries of State and Treasury and the Board of Governors of the Federal Reserve System, and representatives of foreign governments.

d. Administer the regulations issued by the Secretary, and as they may be amended, under Title 15, Code of Federal Regulations, Chapter X, Part 1000.

e. Take such necessary actions as may be necessary to obtain effective compliance with the policies, programs and regulatory system established under this order, to obtain reports and other information, and to conduct investigations to carry them out.

f. Provide a basis for policy formulation of the Department with respect to direct investment abroad and related matters.

g. Utilize the facilities and services of other units of the Department of Commerce, of other Federal or State agencies, and of any of the Federal Reserve Banks, which are available and appropriate.

h. Take such other actions as may be necessary and desirable.

SEC. 5. Effect on other orders. To the extent that this order affects any other orders or regulations of the Department, they are accordingly modified.

SEC. 6. Effective date. This order shall become effective January 2, 1968.

A. B. TROWBRIDGE,
Secretary of Commerce.

[F.R. Doc. 68-113; Filed, Jan. 1, 1968;
6:43 p.m.]

U. S. DEPARTMENT OF COMMERCE
OFFICE OF FOREIGN DIRECT INVESTMENTS
WASHINGTON, D. C. 20230

Instructions for Specific Authorizations or Exemptions
Pursuant to Section 1000.801 of Foreign Direct Investment Regulations

Section 1000.801 of the Foreign Direct Investment Regulations provides procedures whereby applications may be made for specific authorizations to engage in otherwise prohibited transactions which are not within the general authorizations set forth in the regulations. Such section also provides for applications for specific exemptions from provisions of the regulations.

All requests for specific authorizations or exemptions should be made in duplicate to the Director, Office of Foreign Direct Investments, U. S. Department of Commerce, Washington, D. C. 20230. While the content of these applications will vary depending upon the particular specific authorization or exemption sought, the application should contain information which would permit the Director to make an informed evaluation of the need for the specific authorization or exemption and its consistency with the overall policy and objective of the program.

With respect to their submission for specific authorizations for foreign direct investments, the following information should be included:

- Brief description of project, program or transaction to which requested authorization relates.
- Amount of foreign direct investment which is sought to be covered by authorization.
- Source and form of the capital for which transfer is sought.
- Proposed use of the capital for which transfer is sought.
- Reasons why capital is not available from foreign sources.
- Statement and data showing why the general authorization provisions of the regulations do not permit the proposed capital transfer to be effected.
- Relationship of specific application to your overall foreign direct investment position and program.
- Estimated amount of, and time period in which specific proposed capital transfer will result in cash or other returns to the United States.
- Pertinent business or economic considerations.
- Pertinent legal commitments or considerations.
- Description of related transactions involving foreign direct investment for which specific authorization application is pending or contemplated.
- Identification of any other transaction by associated or affiliated persons involving foreign direct investment for which specific authorization is pending or contemplated.
- Proposed time schedules for effecting the transfers for which specific authorization is sought.

With respect to applications for specific exemptions from any requirement of the regulation, applicants should state why the specific exemption is appropriate. Include in such application for such exemption any of the foregoing items of information which are relevant to a disposition of the requested exemption.

Any accounting data submitted should be consistent, as far as possible, with the accounting principles applicable to reports required to be submitted under the regulation. Any substantial inconsistencies should be explained.

Any submission should be confined to essential information. If supplemental or explanatory information is necessary, it will be requested by the Director. The application should include the name, address, and telephone number of the person(s) to whom inquiry may be addressed by the Office of Foreign Direct Investments.

FEDERAL RESERVE SYSTEM

Banks and Financial Institutions: Capital Transfer Abroad

By Executive Order 11387 (January 1, 1968), the President prohibited persons owning 10 per cent or more of a foreign business venture from engaging in transfers of capital abroad except as authorized by the Secretary of Commerce, and also authorized the Secretary to require such persons to repatriate to the United States their earnings from such foreign business ventures and their short-term financial assets abroad, including bank deposits. However, the President ordered the Secretary of Commerce to exempt from said requirements, to the extent delineated by the Board of Governors of the Federal Reserve System, banks and financial institutions certified by the Board as being subject to the Federal Reserve foreign credit restraint program.

On January 2, 1968, the Board transmitted to the Secretary of Commerce the attached letter, which certified that banks and financial institutions of the kinds described therein are subject to said program, the terms of which are stated in the revised Guidelines issued by the Board of Governors January 1, 1968. The Board delineated for exemption all banks and financial institutions within the enumerated categories, with the exception of any bank or financial institution that is subject to the reporting provisions of the Guidelines and fails to report in substantial compliance with those reporting provisions.

In accordance with the President's Order, the "Foreign Direct Investment Regulations" of the Secretary of Commerce, published in the Federal Register of January 3, 1968, exempted banks and financial institutions "to the extent that may be delineated from time to time by the Board of Governors". Accordingly, all banks and financial institutions included in the Board's list are now exempt from said regulations of the Secretary of Commerce, subject to the specified exception.

Dated at Washington, D. C. the 4th day of January 1968.

By order of the Board of Governors.

(signed) Robert C. Holland

Robert C. Holland,
Secretary.

Attachment



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

OFFICE OF THE CHAIRMAN

January 2, 1968.

The Honorable Alexander B. Trowbridge,
Secretary of Commerce,
Washington, D. C. 20230

Dear Mr. Secretary:

In accordance with the provisions of section 1(c) of Executive Order 11,387, dated January 1, 1968, the Board of Governors of the Federal Reserve System certifies that the following banks and financial institutions are subject to the foreign credit restraint programs referred to in said section 1(c):

1. Banks that accept deposits that the depositor has a legal right to withdraw on demand.
2. Savings banks, both stock and mutual.
3. Trust companies, and trust departments of banks.
4. Casualty, fire, marine, and life insurance companies, both stock and mutual.
5. Management investment companies (both open-end and closed-end), as defined in sections 4 and 5 of the Investment Company Act of 1940.
6. Organizations engaged principally in extending credit through consumer, commercial, or industrial loans; financing of sales or lease transactions; leasing of personal property; or purchasing of accounts receivable or similar claims.
7. Organizations engaged principally in underwriting or dealing in securities or acting as broker in securities transactions.
8. Employee retirement and pension funds and similar employee-benefit funds.

The Honorable Alexander B. Trowbridge
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9. Foundations, trusts, institutions, and other non-profit organizations principally devoted to the advancement of art, education, health, philanthropy, recreation, religion, research, or similar areas of activity directed at contributing to the general welfare.
10. Corporations organized under section 25(a) of the Federal Reserve Act (so-called "Edge Act corporations") and corporations having an agreement or undertaking with the Board of Governors under section 25 of said Act (so-called "Agreement corporations").
11. United States branches of foreign banks and financial institutions of the kinds described in the foregoing enumeration.

In accordance with the provisions of said section 1(c), the Board of Governors delineates for exemption from the provisions of section 1 of said Executive Order all banks and financial institutions of the categories enumerated above, with the exception of any bank or financial institution that is subject to the reporting provisions of said programs but is not reporting (or covered by reports filed by another or others on its behalf) in substantial compliance with said reporting provisions.

The foregoing certification and delineation are subject to modification or termination with respect to any category or individual bank or financial institution, in the event that (a) the foreign credit restraint programs referred to in section 1(c) of said Executive Order are so modified that such category or individual bank or financial institution is no longer subject to said programs or (b) the Board of Governors determines that modification or termination of said delineation is necessary or appropriate in the public interest. Any such modification or termination will be communicated by the Board to the Secretary of Commerce.

Sincerely yours,

Wm. McC. Martin, Jr.