

FEDERAL RESERVE BANK  
OF NEW YORK

Fiscal Agent of the United States

[Circular No. 2399]  
March 18, 1942]

Executive Order No. 8389, as amended, and Regulations Issued Pursuant Thereto, Relating to Transactions in Foreign Exchange, Etc., the Trading with the Enemy Act, as amended, and the First War Powers Act, 1941.

To all Banking Institutions, and Others Concerned,  
in the Second Federal Reserve District:

For your information we quote below the text of a telegram received today from the Treasury Department:

The following is the text of General Ruling No. 11 issued today by the Treasury Department:

TREASURY DEPARTMENT  
Office of the Secretary  
March 18, 1942

GENERAL RULING NO. 11  
UNDER EXECUTIVE ORDER NO. 8389, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO, RELATING TO FOREIGN FUNDS CONTROL.

(1) No license or other authorization now outstanding or hereafter issued, unless expressly referring to this general ruling, shall be deemed to authorize any transaction which, directly or indirectly, involves any trade or communication with an enemy national.

(2) As used in this general ruling and in any other rulings, licenses, instructions, etc.:

(a) The term "enemy national" shall mean the following:

(i) The Government of any country against which the United States has declared war (Germany, Italy and Japan) and the Governments of Bulgaria, Hungary and Rumania and any agent, instrumentality or representative of the foregoing Governments, or other person acting therefor, wherever situated (including the accredited representatives of other Governments to the extent, and only to the extent, that they are actually representing the interests of the Governments of Germany, Italy and Japan and Bulgaria, Hungary and Rumania); and

(ii) The government of any other blocked country having its seat within enemy territory, and any agent, instrumentality, or representative thereof, or other person acting therefor, actually situated within enemy territory; and

(iii) Any individual within enemy territory and any partnership, association, corporation or other organization to the extent that it is actually situated within enemy territory; and

(iv) Any person whose name appears on The Proclaimed List of Certain Blocked Nationals and any other person acting therefor.

(b) The term "enemy territory" shall mean the following:

(i) The territory of Germany, Italy and Japan; and

(ii) The territory controlled or occupied by the military, naval or police forces or other authority of Germany, Italy or Japan.

The territory so controlled or occupied shall be deemed to be the territory of Albania; Austria; that portion of Belgium within continental Europe; Bulgaria; that portion of Burma occupied by Japan; that portion of China occupied by Japan; Czechoslovakia; Danzig; that portion of Denmark within continental Europe; Estonia; that portion of France within continental Europe occupied by Germany or Italy; French Indo-China; Greece; Hong Kong; Hungary; Latvia; Lithuania; Luxembourg; British Malaya; that portion of the Netherlands within continental Europe; that portion of the Netherlands East Indies occupied by Japan; Norway; that portion of the Philippine Islands occupied by Japan; Poland; Rumania; San Marino; Thailand; that portion of the Union of Soviet Socialist Republics occupied by Germany; Yugoslavia; and any other territory controlled or occupied by Germany, Italy or Japan.

(c) The term "The Proclaimed List of Certain Blocked Nationals" shall mean "The Proclaimed List of Certain Blocked Nationals" as amended and supplemented, promulgated pursuant to the President's Proclamation of July 17, 1941.

(d) The term "trade or communication with an enemy national" shall mean the sending, taking, bringing, transportation, importation, exportation, or transmission of, or the attempt to send, take, bring, transport, import, export or transmit

(i) any letter, writing, paper, telegram, cablegram, wireless message, telephone message or other communication of any nature whatsoever, or

(ii) any property of any nature whatsoever, including any goods, wares, merchandise, securities, currency, stamps, coin, bullion, money, checks, drafts, proxies, powers of attorney, evidences of ownership, evidences of indebtedness, evidences of property, or contracts

directly or indirectly to or from an enemy national after March 18, 1942.

(3) This general ruling shall not be deemed to affect any outstanding specific license in so far as such license expressly authorizes any transaction which involves trade or communication with any person whose name appears on The Proclaimed List of Certain Blocked Nationals.

(4) Any transaction prohibited by section 3(a) of the Trading with the enemy Act, as amended, is licensed thereunder unless such transaction is prohibited pursuant to section 5(b) of that Act and not licensed by the Secretary of the Treasury. In this connection, attention is directed to the general license under section 3(a) of the Trading with the enemy Act, issued by the President on December 13, 1941.

E. H. FOLEY, JR.,  
*Acting Secretary of the Treasury.*

The following is the text of Communications Ruling No. 1 issued today by the Director of Censorship:

CODE OF FEDERAL REGULATIONS

March 18, 1942

Title 32—National Defense

Chapter VI—Office of Censorship

Part 1—Communications Ruling No. 1 under the Trading  
with the enemy Act, as amended, and the First War  
Powers Act, 1941.

COMMUNICATIONS RULING NO. 1

ISSUED UNDER THE AUTHORITY VESTED IN THE OFFICE OF CENSORSHIP PURSUANT TO THE TRADING WITH THE ENEMY ACT, AS AMENDED, AND THE FIRST WAR POWERS ACT, 1941.\*

(1) By virtue of the authority vested in me by Executive Order No. 8985 (Fed. Reg. Doc. 41-9600) and T. D. 50536 (Fed. Reg. Doc. 41-9799), the sending or transmitting out of the United States in the ordinary course of the mail of any letter or other writing, book, or other paper, or through any public telegraph or cable service of any telegram, cablegram or wireless message of any communication is permitted, provided that both of the following conditions are satisfied:

(a) Such communication complies with all regulations issued by the Office of Censorship; and

(b) Such communication is not addressed to or intended for, or to be delivered, directly or indirectly, to an enemy national.

(2) Nothing contained in this ruling shall be deemed to limit the authority of the Office of Censorship to cause to be censored in its absolute discretion, communication by mail, cable, radio or other means of transmission passing between the United States and any foreign country. All communications permitted by this ruling shall be subject to censorship as fully as if this ruling had not been issued.

(3) As used in this ruling the term "United States" and the term "person" shall have the meaning prescribed in Executive Order No. 8389, as amended, and the term "enemy national" shall have the meaning prescribed in General Ruling No. 11, issued by the Secretary of the Treasury thereunder.

(4) This ruling may be amended or modified at any time; and the right is reserved to exclude from the operation hereof, or from the privileges hereby conferred, and to restrict the applicability hereof with respect to, particular persons or communications or classes thereof.

BYRON PRICE  
*Director of Censorship.*

\* Sec. 3, 40 Stat. 412, as amended, and Sec. 303, Title III of the Act of December 18, 1941, Public Law 354, 77th Congress, 1st Session, 55 Stat. 838; Ex. Order No. 8985, December 19, 1941; Treasury Decision 50536, December 24, 1941.

The following is the text of a press release issued today in connection with the above-mentioned general ruling and communications ruling:

TREASURY DEPARTMENT  
Washington

FOR IMMEDIATE RELEASE

Press Service  
No. 30-79

Regulations adapting the old 1917 Trading with the enemy Act restrictions against trade and communications under war-time conditions to the requirements of the present war were issued today by Henry Morgenthau, Jr., Secretary of the Treasury in conjunction with Byron Price, the Director of Censorship.

Communications Ruling No. 1, issued today by the Director of Censorship, removes many of the old 1917 restrictions on communication with the other American Republics and certain other areas. However, this ruling does not authorize the sending or transmitting of any communication to an enemy national. Communications must comply with all regulations issued by the Office of Censorship. The Office of Censorship pointed out that communications authorized by the ruling will be subject to censoring, the ruling simply permitting the mailing or transmitting of the letter or other message.

Under General Ruling No. 11, issued today by the Secretary of the Treasury, all transactions involving trade or communication with an enemy national are unlawful unless licensed under the freezing regulations. Moreover, no freezing control license will hereafter authorize transactions involving trade or communication with an enemy national unless the license expressly refers to this general ruling. However, the Secretary of the Treasury does have the power to license such transactions and an appropriate license under the freezing Orders is also a license under section 3(a) of the Trading with the enemy Act. In this manner the licensing procedure under the freezing Orders is integrated with the trading with the enemy provisions of section 3(a) of the Trading with the enemy Act.

Today's action by the Secretary of the Treasury also has the effect of synchronizing Communications Ruling No. 1 and General Ruling No. 11 so that the persons regarded as "enemy nationals" for communications purposes are also to be regarded as "enemy nationals" under the war-time prohibitions on trading with the enemy. The transmission of any communication to an enemy national requires a license or authorization from the Office of Censorship but only such communications as are an integral part of a trade, financial or other commercial transaction will also require a license under the freezing Orders. Treasury officials stated that they would pursue their regular Foreign Funds Control policy of generally dealing with all phases of a transaction under one application rather than splitting up a transaction into one application on the communication phase and a different application on other phases.

General Ruling No. 11 also defines the terms "enemy national", "enemy territory" and "trade or communication with an enemy national". One of the principal effects of today's regulations is embodied in these definitions. They modify the old 1917 restrictions against trade and communication under war-time conditions by substituting the new concept "enemy national" for the old "enemy" and "ally of enemy" terminology of the last war. This change was made so that the public might be afforded a more precise understanding of the restrictions on trade and communications under war-time conditions. At the same time this change also permitted an effective adaptation of these restrictions to the pattern of the present war.

Under today's regulations persons may not trade or communicate with an "enemy national". This means that they may not trade or communicate with (a) enemy territory; (b) any person whose name appears on the "black list," i.e., The Proclaimed List of Certain Blocked Nationals, or any person acting for a black-listed person; and (c) representatives or agents of the Government of Germany, Italy, Japan, Bulgaria, Hungary or Rumania, whether situated within or without enemy territory. "Enemy territory" was defined as meaning the territory of Germany, Italy and Japan, together with the territory under their occupation or control. The principal areas falling into this latter category were listed by name as a convenience to the public.

Officials explained that today's regulations were more specific as to the groups with which trade and communication was unlawful than were the old statutory terms of "enemy" and "ally of enemy". Thus, for example, during the last World War persons in the United States were charged with the duty of not trading or communicating with any firm in Latin America "doing business within the territory of any nation with which the

United States is at war". While this was a commendable objective, yet in most instances a person in the United States had no way of knowing whether a Latin American firm was in fact "doing business within the territory of any nation with which the United States is at war". Today a person in the United States may freely trade or communicate with any one in Latin America unless such person is on the published "black list" or is known to be an agent or representative of such person or for one of the Axis governments or their satellites. Thus a person may deal with the Buenos Aires branch of an Italian firm so long as such branch is not placed on the black list or is not known to be acting as a cloak for a Proclaimed List national or for the Axis. Of course, a person may not trade or communicate with such Latin American branch if in fact he intends to use this as a device for actually communicating with the head office of the firm in Italy.

These same general rules are applicable with respect to trade and communication with enemy nationals in the United States. It was emphasized that the provisions against trade and communication with enemy nationals do not make it unlawful to deal with persons in the United States merely because such persons are German or Italian aliens or because a business house within the United States has a Japanese name. Officials also pointed out that the activities of persons within the United States, which are inimical to the war effort and the security of the Western Hemisphere, are dealt with by effective internal controls, including the control of aliens by the Department of Justice, as well as freezing control.

The Treasury Department called attention to the fact that General Ruling No. 11 imposes an additional restriction in every general and special license now outstanding or hereafter issued under the freezing Orders. The new general ruling has the effect of writing into every Foreign Funds Control license a restriction against any transaction which directly or indirectly involves any trade or communication with an enemy national after March 18, 1942.

Thus, for example, General Licenses Nos. 32 and 33 no longer authorize remittances to persons in enemy territory or any other remittances involving communication with an enemy national. Likewise, securities or trade transactions based on instructions received after March 18, 1942, from enemy territory or enemy nationals may not be effected under outstanding licenses.

One exception to the general restrictions was made. The general ruling does provide that it shall not affect outstanding specific licenses which expressly authorize transactions with Proclaimed List nationals. Officials explained that there were relatively few such licenses outstanding and that these represented special cases such as the Government of a Latin American country undertaking to impose special local controls on the activities of a black-listed firm.

Upon the entry of the United States into the present war, the public telegraph and cable companies were instructed to submit to the office of the Naval Censor all telegrams, cablegrams, and wireless messages delivered to such companies for transmission out of the United States. Pending the announcement of a formal procedure under sections 3(c) of the Trading with the enemy Act, the Treasury Department and the Office of Censorship authorized the delivery of messages to public telegraph and cable companies and such messages were passed upon by the Naval Censor and, if approved, authorized to be dispatched. This informal procedure was regarded by the Treasury Department and the Office of Censorship as licensed under section 3(c) of the Trading with the enemy Act. Communications Ruling No. 1, issued today, supersedes this informal arrangement.

Officials called attention to the fact that, subject to today's modifications, the prohibitions against trade and communication with the enemy appearing in the old 1917 Trading with the enemy Act are still in effect and that persons violating such provisions are subject to heavy criminal penalties.

Additional copies of this circular will be furnished upon request.

ALLAN SPROUL,  
President.