

FEDERAL RESERVE BANK
OF NEW YORK

Fiscal Agent of the United States

[Circular No. 2405]
March 30, 1942

Executive Order No. 8389, as Amended, and Regulations Issued Pursuant Thereto,
Relating to Foreign Funds Control.

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 Public Circular No. 18 issued today:

CODE OF FEDERAL REGULATIONS
Title 31—Money and Finance: Treasury
Chapter I—Monetary Offices, Department of the Treasury
Parts 130 and 131
Appendix*

TREASURY DEPARTMENT
Office of the Secretary
March 30, 1942

PUBLIC CIRCULAR NO. 18
UNDER EXECUTIVE ORDER NO. 8389, AS AMENDED, AND REGULATIONS ISSUED
PURSUANT THERETO, RELATING TO FOREIGN FUNDS CONTROL.

(1) Reference is made to General Ruling No. 11, relating to transactions involving trade or communication with an enemy national. Inquiry has been made as to the standard of conduct which United States concerns doing business with Latin America are required to follow with respect to transactions involving enemy nationals.

(2) Any person within the Western Hemisphere who is subject to the jurisdiction of the United States shall not engage in any financial, business, trade or other commercial transaction which is directly or indirectly with, by, on behalf of, or for the benefit of an enemy national, except as specifically authorized by the Secretary of the Treasury, by means of regulations, rulings, instructions, licenses or otherwise.

(3) As used herein, the term "person subject to the jurisdiction of the United States" shall include:

- (a) Any citizen of the United States whether within the United States or within any foreign country;
- (b) Any person within the United States;
- (c) Any partnership, association, corporation, or other organization
 - (i) which is organized under the laws of the United States; or
 - (ii) which has its principal place of business within the United States; or
 - (iii) which is owned or controlled by, directly or indirectly, one or more persons subject to the jurisdiction of the United States as herein defined; and
- (d) Any agent, subsidiary, affiliate or other person owned or controlled, directly or indirectly, by any persons subject to the jurisdiction of the United States as herein defined.

(4) In appropriate cases, United States diplomatic and consular officers in the other American Republics should be consulted with respect to the matters referred to herein and applications for licenses to engage in transactions referred to herein may be filed with such officers in lieu of filing such applications in the United States. The Treasury Department has delegated authority to such officers through the State Department, and accordingly such officers are in a position to take action on applications in certain cases without first referring such applications to the Treasury Department.

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

* This public circular affects Parts 130 and 131 and will be included in appendices to those parts. Sec. 5(b), 40 Stat. 415 and 966; Sec. 2, 48 Stat. 1; 54 Stat. 179; Public No. 354, 77th Congress; Ex. Order 8389, April 10, 1940, as amended by Ex. Order 8785, June 14, 1941, Ex. Order 8832, July 26, 1941, Ex. Order 8963, December 9, 1941, and Ex. Order 8998, December 26, 1941; Regulations, April 10, 1940, as amended June 14, 1941, and July 26, 1941.

(over)

The following is the text of the press release issued in connection therewith:

TREASURY DEPARTMENT
Washington

FOR IMMEDIATE RELEASE PRESS SERVICE
March 30, 1942.

The Treasury Department made public today the standard of conduct which United States concerns doing business within Latin America are required to follow with respect to transactions involving enemy nationals. Public Circular No. 18 issued today made it clear that United States concerns operating in Latin America, including their agents, subsidiaries and affiliates, may not deal in any manner whatsoever with enemy nationals, except pursuant to specific authorization of the Treasury Department.

This public circular was issued in response to inquiries received by the Treasury Department after the release of General Ruling No. 11 which prohibits, unless specially licensed, transactions involving trade or communication with enemy nationals. "Enemy nationals" was defined in General Ruling No. 11 as meaning (a) any person within 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 Governments 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.

Today's public circular calls attention to the fact that the prohibitions against dealings with enemy nationals are applicable to any person within the Western Hemisphere who is subject to the jurisdiction of the United States including all individuals and concerns within the United States; all citizens of the United States wheresoever located; all concerns organized under the laws of the United States or having their principal place of business in the United States including any agent, subsidiary, or affiliate of any such concern wheresoever located; and any concern which is owned or controlled by any other concern subject to the jurisdiction of the United States.

The important features of the standard of conduct set forth in today's public circular are the following:

(a) American controlled concerns operating in Latin America are prohibited from having any financial, business, trade or other commercial dealings with persons or firms within enemy territory. Thus a Latin American branch of a New York corporation may not have any dealings (except under license) with a firm situated within Germany, Italy or Japan or within any territory controlled or occupied by such countries.

(b) American controlled concerns operating in Latin America may not deal (except under license) with persons or firms on the black list or any person or firm acting for a black listed firm.

The restrictions on dealings with enemy nationals are subject to the licensing power of the Secretary of the Treasury, who in specific instances may authorize transactions. However, authorizations to deal with enemy nationals will be given only in exceptional circumstances, and then only when it is clear that the best interests of this country and the other American Republics will be served by allowing the transactions involved.

United States diplomatic and consular officers in Latin America have been authorized to receive applications for licenses, and they have been authorized to take action on such applications in certain cases without referring the applications to the Treasury Department. American concerns within Latin America who desire information or advice will be able to consult the nearest United States diplomatic or consular official.

It was stated that if any American concern fails to comply with the standards of conduct which have been established, any of a number of sanctions might be employed. Among these sanctions are the placing of the name of any non-complying concern on the *Proclaimed List*, the blocking of the assets of any such concern, and the criminal prosecution of the firm and its officers under the Trading with the enemy Act, the First War Powers Act, and other appropriate legislation.

The Treasury Department is also urging American firms within the United States who are trading with neutral countries to cooperate with the Government in detecting and stopping the cloaking operations of enemy nationals. Effective cooperation on the part of American importers and exporters, it was said, could stop cloaking transactions. It was pointed out that the flow of goods between Germany and Italy and Latin America having been stopped by the war, Axis firms in the Latin American Republics are exercising all of their cunning in an effort to carry on trade with this country. Huge commissions are paid to cloaks for their services in securing supplies which will enable black listed firms to continue in business. Orders are sent in the name of relatives and employees, and in some cases, transshipments are made from one country to another in order to avoid detection. Americans who are engaged in the export-import trade are in a favorable position to discover and report such operations because they can recognize the source of imports or discover similarities between orders received from cloaks and previous orders of black listed persons in the locality of the cloak.

Additional copies of this circular will be furnished upon request.

ALLAN SPROUL, *President.*