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subject to this mandatory reporting requirement may be judgmental, that is, based on the judgement of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(*ii*) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(*2*) Voluntary reporting. If, during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries or parts combined that are financial services providers or intermediaries, are $10,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the $10,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both sales or purchases.

(B) BE–82 definition of financial services provider. Except for Monetary Authorities (*i.e.*, Central Banks), the definition of financial services provider used for this survey is identical in coverage to Sector 52—Finance and Insurance—of the North American Industry Classification System, United States, 1997. For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, holding companies, savings institutions, check cashing, and debit card issuing); nondepository credit intermediation (including credit card issuing, sales financing, and consumer lending); securities, commodity contracts, and other financial investments and related activities (including security and commodity futures brokers, dealers, exchanges, traders, underwriters, investment bankers, and providers of securities custody services); insurance carriers and related activities (including agents, brokers, and services providers); investment advisors and managers and funds, trusts, and other financial vehicles (including mutual funds, pension funds, real estate investment trusts, investors, stock quotation services, etc.).

(C) Covered types of services. The BE–82 survey covers the same types of financial services transactions that are covered by the BE–80 benchmark survey, as listed in § 801.11(c).

(D) What to file. (*1*) the BE–82 survey consists of Forms BE–82 (A) and BE–82(B). Before completing a form BE–82 (B), a consolidated U.S. enterprise (including the top parent and all of its subsidiaries and parts combined) must complete Form BE–82 (A) to determine its reporting status. If the enterprise is subject to the mandatory reporting requirement, or if it is exempt from the mandatory reporting requirement but chooses to report data voluntarily, either a separate Form BE–82(B) for each separately organized financial services subsidiary or part of a consolidated U.S. enterprise, or a single BE–82(B) representing the sum of all covered transactions by all financial services subsidiaries or parts of the enterprise combined must be completed.

(*2*) Reporters who receive the BE–82 survey from BEA, but that are not reporting data in either the mandatory or voluntary section of any BE–82(B), must return the Exemption Claim, attached to Form BE–82 (A), to BEA.

(*ii*) [Reserved]

EFFECTIVE DATE NOTE 2: At 65 FR 77813, Dec. 13, 2000, § 801.9 was amended by revising paragraph (b)(5)(ii), effective Jan. 12, 2001. For the convenience of the user, the revised text is set forth as follows:

§ 801.9 Reports required.

* * * * *

(b) * * *

(5) * * *

(ii) *Exemption.* A U.S. person otherwise required to report is exempt if total receipts and total payments of the types covered by the form are each $2 million or less in the reporting year. If the total of either covered receipts or payments is more than $2 million in the reporting year, a report must be filed.

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§ 801.10 Rules and regulations for the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

The BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons, will be conducted covering companies' 1996 fiscal year and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.9(a) are applicable to this survey. Additional rules and regulations for the BE–20 survey are given in this section. More detailed instructions and descriptions of the individual types of services covered are given on the report form itself.

(a) The BE–20 survey consists of two parts and eight schedules. Part I requests information needed to determine whether a report is required and

which schedules apply. Part II requests information about the reporting entity. Each of the eight schedules covers one or more types of services and is to be completed only if the U.S. Reporter has transactions of the type(s) covered by the particular schedule.

(b) *Who must report*—(1) *Mandatory reporting*. A BE–20 report is required from each U.S. person who had transactions (either sales or purchases) in excess of $500,000 with unaffiliated foreign persons in any of the services listed in paragraph (c) of this section during its fiscal year covered by the survey.

(i) The determination of whether a U.S. person is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search. Because the $500,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases.

(ii) Reporters who file pursuant to this mandatory reporting requirement must complete Parts I and II of Form BE–20 and all applicable schedules. The total amounts of transactions applicable to a particular schedule are to be entered in the appropriate column(s) on line 1 of the schedule. In addition, except for sales of merchanting services, these amounts must be distributed below line 1 to the country(ies) involved in the transaction(s). For sales of merchanting services, the data by individual foreign country are not required to be reported, although these data may be reported voluntarily.

(iii) Application of the $500,000 exemption level to each covered service is indicated on the schedule for that particular service. It should be noted that an item other than sales or purchases may be used as the measure of a given service for purposes of determining whether the threshold for mandatory reporting of the service is exceeded.

(2) *Voluntary reporting*. If, during the fiscal year covered, the U.S. person's total transactions (either sales or purchases) in any of the types of services listed in paragraph (c) of this section are $500,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service.

(i) Provision of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed manual records search. Because the $500,000 threshold applies separately to sales and purchases, the voluntary reporting option may apply only to sales, only to purchases, or to both sales and purchases.

(ii) The amounts of transactions reportable on a particular schedule are to be entered in the appropriate column(s) in the voluntary reporting section of the schedule; they are not required to be disaggregated by country. Reporters filing voluntary information only should also complete Parts I and II of the form.

(3) Any U.S. person that receives the BE–20 survey form from BEA, but is not reporting data in either the mandatory or voluntary section of the form, must nevertheless complete and return the Exemption Claim included with the form to BEA. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary followup contact.

(c) *Covered types of services*. Only the services listed in this paragraph are covered by the BE–20 survey. Other services, such as transportation and reinsurance, are not covered. Covered services are: Agricultural services; research, development, and testing services; management, consulting, and public relations services; management of health care facilities; accounting, auditing, and bookkeeping services; legal services; educational and training services; mailing, reproduction, and commercial art; employment agencies and temporary help supply services; industrial engineering services; industrial-type maintenance, installation, alteration, and training services; performing arts, sports, and other live performances, presentations, and events; sale or purchase of rights to natural resources, and lease bonus payments; use or lease of rights to natural resources,

excluding lease bonus payments; disbursements to fund news-gathering costs of broadcasters; disbursements to fund news-gathering costs of print media; disbursements to fund production costs of motion pictures; disbursements to fund production costs of broadcast program material other than news; disbursements to maintain government tourism and business promotion offices; disbursements for sales promotion and representation; disbursements to participate in foreign trade shows (purchases only); premiums paid on purchases of primary insurance; losses recovered on purchases of primary insurance; construction, engineering, architectural, and mining services (purchases only); merchanting services (sales only); financial services (purchases only, by companies or parts of companies that are not financial services providers); advertising services; computer and data processing services; data base and other information services; telecommunications services; operational leasing services; and ''other'' private services. ''Other'' private services covers transactions in the following types of services: Satellite photography services, security services, actuarial services, salvage services, oil spill and toxic waste cleanup services, language translation services, and account collection services.

[62 FR 1667, Jan. 13, 1997]

§ 801.11 Rules and regulations for the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

A BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, will be conducted covering 1999 and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.9 are applicable to this survey. Additional rules and regulations for the BE–80 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Who must report*—(1) *Mandatory reporting*. Reports are required from each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary, or part, that is a financial services provider or intermediary, and who had transactions (either sales or purchases) directly with unaffiliated foreign persons in all financial services combined in excess of $3,000,000 during its fiscal year covered by the survey. The $3,000,000 threshold should be applied to financial services transactions with unaffiliated foreign persons by all part of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the $3,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(2) *Voluntary reporting*. If during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries, or parts, combined that are financial services providers or intermediaries, are $3,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the $3,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both.

(b) *BE–80 definition of financial services provider*. Except for Monetary Authorities (i.e. Central Banks), the definition of financial services provider