

## § 806.7

## 15 CFR Ch. VIII (1–1–03 Edition)

other rule, regulation, order or instruction promulgated under the Act may be subject to a civil penalty not exceeding \$10,000 in a proceeding brought in an appropriate United States court and to injunctive relief commanding such person to comply, or both (see section 6(a) and (b) of the Act, 22 U.S.C. 3105).

(b) Whoever willfully fails to submit any information required by the Act or required by § 806.3 or willfully violates any other rule, regulation, order or instruction promulgated under the Act, upon conviction, shall be fined not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both. Any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both (see section 6(c) of the Act, 22 U.S.C. 3105).

(c) Any person who willfully violates § 806.5 relating to confidentiality, shall, upon conviction, be fined not more than \$10,000, in addition to any other penalty imposed by law (see section 5(d) of the Act, 22 U.S.C. 3104).

### § 806.7 General definitions.

(a) *United States*, when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(b) *Foreign*, when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(c) *Person* means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government sponsored agency);

(d) *United States person* means any person resident in the United States or subject to the jurisdiction of the United States;

(e) *Foreign person* means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(f) *Business enterprise* means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(g) *Parent* means a person of one country who, directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(h) *Affiliate* means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(i) *International investment* means (1) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (2) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short- and long-term debt obligations of a foreign person;

(j) *Direct investment* means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise;

(k) *Portfolio investment* means any international investment which is not direct investment;

(l) *Associated group* means two or more persons who, by the appearance of their actions, by agreement, or by an understanding, exercise their voting privileges in a concerted manner to influence the management of a business

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enterprise. Each of the following are deemed to be an associated group:

- (1) Members of the same family,
- (2) A business enterprise and one or more of its officers and directors,
- (3) Members of a syndicate or joint venture, or
- (4) A corporation and its domestic subsidiaries;

(m) *Branch* means the operations or activities conducted by a person in a different location in its own name rather than through an incorporated entity; and

(n) *Intermediary* means an agent, nominee, manager, custodian, trust, or any person acting in a similar capacity.

[42 FR 64315, Dec. 22, 1977, as amended at 43 FR 54624, Nov. 22, 1978; 46 FR 23226, Apr. 24, 1981]

### § 806.8 Real estate.

Residential real estate held exclusively for personal use and not for profitmaking purposes is not subject to the reporting requirements of this part. A residence which was an owner's primary residence that is then leased by the owner while outside his/her country of usual residence but which the owner intends to reoccupy, is considered real estate held for personal use. Ownership of residential real estate by a corporation whose sole purpose is to hold the real estate and where the real estate is for the personal use of the individual owner(s) of the corporation, is considered real estate held for personal use. If a business enterprise, otherwise required to report, is in the form of real property not identifiable by name, reports are required to be filed by and in the name of the beneficial owner, or in the name of such beneficial owner by the intermediary of such beneficial owner.

[46 FR 23226, Apr. 24, 1981]

### § 806.9 Airlines and ship operators.

Foreign stations, ticket offices, and terminal and port facilities of U.S. airlines and ship operators; and U.S. stations, ticket offices, and terminal and port facilities of foreign airlines and ship operators; which provide services only to their own operations are exempted from being reported. Reports

are required when such affiliates produce significant revenues from services provided to unaffiliated persons.

### § 806.10 Determining place of residence and country of jurisdiction of individuals.

An individual will be considered a resident of, and subject to the jurisdiction of, the country in which physically located, subject to the following qualifications:

(a) Individuals who reside, or expect to reside, outside their country of citizenship for less than one year are considered to be residents of their country of citizenship.

(b) Individuals who reside, or expect to reside, outside their country of citizenship for one year or more are considered to be residents of the country in which they are residing, except as provided in paragraph (c) of this section.

(c) Notwithstanding paragraph (b) of this section, if an owner or employee of a business enterprise resides outside the country of location of the enterprise for one year or more for the purpose of furthering the business of the enterprise, and the country of the business enterprise is the country of citizenship of the owner then such owner or employee shall nevertheless be considered a resident of the country of citizenship provided there is the intent to return within a reasonable period of time.

(d) Individuals and members of their immediate families who are residing outside their country of citizenship as a result of employment by the government of that country—diplomats, consular officials, members of the armed forces, etc.—are considered to be residents of their country of citizenship.

### § 806.11 Estates, trusts, and intermediaries.

(a) An estate, either U.S. or foreign, is a person and therefore may have direct investment, and the estate, not the beneficiary, is considered to be the owner.

(b) A trust, either U.S. or foreign, is a person, but is not a business enterprise. The trust shall be considered the same as an intermediary and reporting should be as outlined in paragraph (c)