

## 2008 ANNUAL SURVEY OF U.S. DIRECT INVESTMENT ABROAD INSTRUCTIONS

The Annual Survey of U.S. Direct Investment Abroad is conducted to secure current economic data on the operations of U.S. parent companies and their foreign affiliates. Reports filed in this survey should be consistent with those filed in the 2007 BE-11 Annual Survey of U.S. Direct Investment Abroad in regard to concepts and definitions, accounting methods, affiliate and reporter consolidations, etc. However, filing this report is not contingent upon having filed a 2007 BE-11.

**Electronic filing option (eFile)** – Forms that can be transmitted to BEA electronically will be available on the BEA Web site: [www.bea.gov](http://www.bea.gov). If you eFile, please do not submit paper reports.

### I. REPORTING REQUIREMENTS

Section 806.4 of 15 CFR, Chapter VIII, requires that all persons subject to the reporting requirements of the BE-11 survey respond, whether or not they are contacted by BEA. It also requires that a person, or their agent, who is contacted by BEA about reporting in this survey, either by sending them report forms or by written inquiry, must respond in writing. They may respond by submitting by May 29, 2009: 1) a completed "BE-11 Claim for Not Filing" or certifying in writing that they had no direct investment within the purview of the reporting requirements of the BE-11 survey; or 2) a properly completed BE-11 report, as required.

**Penalties** – Whoever fails to report shall be subject to a civil penalty of not less than \$2,500, and not more than \$25,000, and to injunctive relief commanding such person to comply, or both. Whoever willfully fails to report 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 violations, upon conviction, may be punished by a like fine, imprisonment or both (22 U.S.C. 3105). These civil penalties are subject to inflationary adjustments. Those adjustments are found in 15 CFR 6.4.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. The control number for this survey, 0608-0053, appears at the top of each form.

#### Forms comprising a BE-11 report are:

- **Form BE-11A** – Report for U.S. Reporter;
- **Form BE-11B(LF) (Long Form)** – Report for majority-owned nonbank foreign affiliate of nonbank U.S. Reporter with assets, sales, or net income greater than \$225 million (positive or negative);
- **Form BE-11B(SF) (Short Form)** – Report for majority-owned nonbank foreign affiliate of nonbank U.S. Reporter with assets, sales, or net income greater than \$60 million, but not greater than \$225 million (positive or negative);
- **Form BE-11B(FN)** – Report for foreign affiliate of bank U.S. Reporter and bank affiliate of nonbank U.S. Reporter with assets, sales, or net income greater than \$250 million (positive or negative);
- **Form BE-11B(EZ)** – Report for each nonbank foreign affiliate of nonbank U.S. Reporter that is **selected by BEA** to file the BE-11B(EZ) form in lieu of the BE-11B(SF) (Short Form).

- **Form BE-11C** – Report for minority-owned nonbank foreign affiliate of nonbank U.S. Reporter with assets, sales, or net income greater than \$60 million (positive or negative).

#### • BE-11 Claim for Not Filing

For definition of terms, see Section II of these instructions.

**A. Who must report** – A BE-11 report is required of any U.S. person that had a foreign affiliate at the end of the U.S. person's 2008 fiscal year that is not exempt as detailed in *I.C.*

#### B. Forms for U.S. Reporter and foreign affiliates

##### 1. Form BE-11A – Report for U.S. Reporter

**a. Basic requirements** – If the U.S. Reporter is a corporation, Form BE-11A must cover the fully consolidated U.S. domestic business enterprise (banking and nonbanking). See *I.B.1.b* for the definition of "fully consolidated U.S. domestic business enterprise."

**Note** – A U.S. Reporter that is not a bank but that owns a majority interest in a U.S. bank, is required to file the bank, including all of its domestic subsidiaries or units, on a separate Form BE-11A. (However, if the bank, including its domestic subsidiaries, does not have a foreign affiliate, it is not required to report.) Banking activities owned by a nonbank must also be included on the nonbank's Form BE-11A using the equity method of accounting.

The U.S. Reporter must file a **complete** Form BE-11A if **any one** of the following three items of the fully consolidated U.S. **domestic** business enterprise was greater than \$225 million (positive or negative) at the end of, or for, the Reporter's 2008 fiscal year:

- (1) total assets,
- (2) sales or gross operating revenues excluding sales taxes, or
- (3) net income after provision for income taxes.

The U.S. Reporter must complete only items 1 through 31 and items 63 through 65 of Form BE-11A if **no one** of the three items listed above for the fully consolidated U.S. **domestic** business enterprise was greater than \$225 million (positive or negative) at the end of, or for, the Reporter's 2008 fiscal year.

The U.S. Reporter must also complete a Form BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), or BE-11C, as appropriate, for **each** nonexempt foreign affiliate. See *I.B.2* and *I.C.*

In addition, the U.S. Reporter must complete the BE-11A Supplement A for foreign affiliates established or acquired in 2008 which are under the reporting threshold for being filed on Form BE-11B or BE-11C but have assets, sales, or net income greater than \$10 million (positive or negative).

**b. Definition of "fully consolidated U.S. domestic business enterprise"** – The fully consolidated U.S. domestic business enterprise is defined as: **1)** the U.S. corporation whose voting securities are not owned more than 50 percent by another U.S. corporation, and **2)** proceeding down each ownership chain from that U.S. corporation, any U.S. corporation (including Foreign Sales Corporations located in the United States) whose voting securities are more than 50 percent owned by the U.S. corporation above it. **This consolidation excludes foreign branches and all other foreign affiliates.**

Conditions may exist that cause a U.S. parent company to exclude a domestic subsidiary from its consolidation. If a U.S. Reporter cannot consolidate all of its domestic subsidiaries in its Form BE-11A, **it must request and be granted** written permission from BEA to file on an unconsolidated basis prior to filing the report. The U.S. parent is responsible for ensuring that the required Form BE-11A and related Forms BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), and BE-11C, for itself and any unconsolidated domestic subsidiaries are filed with BEA. The filing deadline for an unconsolidated domestic subsidiary is the same as that for its U.S. parent.

**Note** – A U.S. Reporter that is not a bank but that owns a majority interest in a U.S. bank is required to file the bank, including all its domestic subsidiaries or units, on a separate Form BE-11A and does not need to request permission not to fully consolidate its domestic business enterprise.

**c. Calculation of ownership percentage** – A U.S. Reporter’s ownership interest in a foreign business enterprise may be directly held, indirectly held, or both. It is directly held if the U.S. Reporter itself holds the ownership interest in the foreign business enterprise. It is indirectly held if the U.S. Reporter holds an ownership interest in another foreign business enterprise that, in turn, owns the given foreign business enterprise. The U.S. Reporter must sum all direct and indirect lines of ownership interest in the foreign business enterprise to determine its ownership interest. **Note – An associated group is deemed to be one U.S. Reporter.**

A U.S. Reporter’s percentage of indirect ownership interest in a given foreign business enterprise is the product of the direct ownership percentage that the U.S. Reporter has in the first foreign business enterprise in the ownership chain, multiplied by that first enterprise’s direct ownership percentage in the second enterprise in the chain, multiplied by the direct ownership percentages for all other intervening enterprises in the ownership chain, multiplied by the last intervening enterprise’s direct ownership percentage in the given foreign business enterprise.

**d. Other requirements for filing Form BE-11A**

- (1) Foreign affiliate is owned by only part of the fully consolidated U.S. domestic business enterprise** – The U.S. Reporter is deemed to be the fully consolidated U.S. domestic business enterprise even if only one entity in the consolidated U.S. enterprise directly owns the foreign affiliate.
- (2) U.S. Reporter that is an individual, estate, trust, or nonprofit organization** – A U.S. Reporter that is an individual, estate, trust, or religious, charitable, or other nonprofit organization, and that owns a nonexempt foreign affiliate directly, rather than through a U.S. business enterprise, should complete only items 1 and 8 of Form BE-11A and attach an explanatory note attesting to its status. Required Forms BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), and BE-11C must be filed as appropriate.
- (3) U.S. business enterprise owned by an individual, estate, trust, or nonprofit organization** – If a U.S. individual, estate, trust, or nonprofit organization owns more than 50 percent of a U.S. business enterprise that, in turn, owns a foreign affiliate, then the U.S. Reporter is deemed to be the U.S. business enterprise, not

the individual, etc. The BE-11 report should be filed by, and Form BE-11A should be for, the U.S. business enterprise not the individual, etc. However, direct financial transactions or positions, if any, by the individual, etc., with the foreign affiliate must be included in the business enterprise’s report.

- (4) U.S. Reporter owned by a foreign person** – A U.S. Reporter that is a U.S. affiliate of a foreign person and that is filing a 2008 BE-15A, Annual Survey of Foreign Direct Investment in the United States should only complete items 1–10, 33–36, 48–55, and Supplement A of Form BE-11A.
- (5) Joint ownership of foreign affiliate** – If two or more U.S. Reporters jointly own, directly or indirectly, a foreign affiliate, each U.S. Reporter must file a Form BE-11A.

**2. Forms BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), and BE-11C** – Report for foreign affiliate

**NONBANK REPORTER**

U.S. Dollar Amount	Ownership	MAJORITY-OWNED FOREIGN AFFILIATE	MINORITY-OWNED FOREIGN AFFILIATE
		>50%	≥20 and ≤50%
NON-BANK FOREIGN AFFILIATE	At least one of the three items* is greater than \$225 million (+ or -).	BE-11B(LF)	BE-11C
	At least one of the three items* is greater than \$60 million (+ or -) but no item is greater than \$225 million (+ or -).	BE-11B(SF)	
	Foreign affiliate <b>established or acquired during fiscal year 2008</b> and at least one of the three items* is greater than \$10 million (+ or -) but no item is greater than \$60 million (+ or -)	BE-11A Supplement A	
BANK FOREIGN AFFILIATE	At least one of the three items* is greater than \$250 million (+ or -)	BE-11B(FN)	
	Foreign affiliate <b>established or acquired during fiscal year 2008</b> and at least one of the three items* is greater than \$10 million (+ or -) but no item is greater than \$250 million (+ or -)	BE-11A Supplement A	

\*Exemption level items – Total assets, sales or gross operating revenues excluding sales taxes, and net income (loss) after provision for foreign income taxes.

An affiliate is majority-owned by virtue of being owned more than 50 percent by all U.S. Reporters of the affiliate combined.

**BANK REPORTER**

U.S. Dollar Amount	Ownership	<b>All FOREIGN AFFILIATES &gt;10%</b>
	At least one of the three items* is greater than \$250 million (+ or -).	BE-11B(FN)
BANK AND NON-BANK FOREIGN AFFILIATE	Foreign affiliate <b>established or acquired during fiscal year 2008</b> and at least one of the three items* is greater than \$10 million (+ or -) but no item is greater than \$250 million (+ or -)	BE-11A Supplement A

\*Exemption level items – Total assets, sales or gross operating revenues excluding sales taxes, and net income (loss) after provision for foreign income taxes.

**Note** – Unless otherwise stated, whenever reference is made to the financial or operating data of a foreign affiliate, such as assets, sales, or net income, the data are to represent 100 percent of the foreign affiliate’s operations and not just a portion, if less than 100 percent, corresponding to the ownership share of the U.S. Reporter(s). Also, include equity investment in unconsolidated foreign affiliates and do not eliminate an affiliate’s receivables due from its parent or from other affiliated persons from the affiliate’s total assets when applying the exemption criteria for this report.

**a. Form BE-11B(LF) or (SF) – Report for majority-owned nonbank foreign affiliate of nonbank U.S. Reporter**

A BE-11B(LF) (Long Form) must be filed by the nonbank U.S. Reporter for each majority-owned nonbank foreign affiliate, whether held directly or indirectly, for which **any one** of the following three items was greater than \$225 million (positive or negative) at the end of, or for, the affiliate’s 2008 fiscal year:

- (1) total assets,
- (2) sales or gross operating revenues excluding sales taxes, or
- (3) net income (loss) after provision for foreign income taxes.

A BE-11B(SF) (Short Form) must be filed by the nonbank U.S. Reporter for each majority-owned nonbank foreign affiliate, whether held directly or indirectly, for which **any one** of the three items listed above was greater than \$60 million (positive or negative) but for which no one of these items was greater than \$225 million (positive or negative) at the end of, or for, the affiliate’s fiscal year.

**b. Form BE-11B(FN) – Report for foreign affiliate of bank U.S. Reporter and bank affiliate of nonbank U.S. Reporter**

A BE-11B(FN) must be filed by (a) a bank U.S. Reporter for each bank and nonbank foreign affiliate, whether held directly or indirectly, for which **any one** of the three items listed in I.B.2.a. above was greater than \$250 million (positive or negative) at the end of, or for, the affiliate’s 2008 fiscal year; or (b) a nonbank U.S. Reporter for each bank foreign affiliate, whether held

directly or indirectly, for which any one of the three items listed in I.B.2.a. was greater than \$250 million (positive or negative) at the end of, or for, the affiliate’s 2008 fiscal year.

**c. Form BE-11B(EZ) – Report for nonbank foreign affiliates selected by BEA to file this form in lieu of filing Form BE-11B(SF)**

**d. Form BE-11C – Report for minority-owned nonbank foreign affiliate of nonbank U.S. Reporter**

A Form BE-11C must be filed by a nonbank U.S. Reporter for each minority-owned nonbank foreign affiliate owned directly and/or indirectly, at least 20 percent, but not more than 50 percent, by all U.S. Reporters of the affiliate combined, for which **any one** of the three items listed in I.B.2.a. was greater than \$60 million (positive or negative), at the end of, or for, the affiliate’s fiscal year.

**e. Other requirements for filing Forms BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), and BE-11C**

**(1) Rules for consolidation of foreign affiliate –**

Use the following rules to determine which foreign business enterprises may be consolidated into one foreign affiliate report:

- (a) FOREIGN BUSINESS ENTERPRISES LOCATED IN DIFFERENT COUNTRIES MAY NOT, UNDER ANY CIRCUMSTANCES, BE CONSOLIDATED.
- (b) Foreign business enterprises located in the same country that are integral parts of the same business operation **may** be consolidated into one affiliate report.
- (c) Foreign business enterprises located in the same country and in the same BEA 4-digit industry, as defined in the **Guide to Industry Classifications for International Surveys, 2002**, may be consolidated.
- (d) Foreign business enterprises that have an equity investment in an unconsolidated business enterprise, report that investment using the equity method of accounting. *See also IV.C.*
- (e) Foreign bank branches of the U.S. Reporter that are located in the same country **must** be consolidated on one Form BE-11B(FN), even if the U.S. Reporter’s practice is to report data for these branches separately to the Federal Reserve (on Form FFIEC 030) or to the Comptroller of the Currency. Incorporated foreign bank affiliates of the U.S. Reporter located in the same country **may** be consolidated.
- (f) Bank and nonbank enterprises located in the same country may **not** be consolidated.

**Note** – A U.S. Reporter who participates in BEA’s BE-577 quarterly survey of U.S. direct investment abroad, Direct Transactions of a U.S. Reporter with Foreign Affiliate, should consolidate foreign business enterprises on Forms BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), and BE-11C in the same manner as on Form BE-577.

**(2) Reporting of foreign affiliates owned by more than one U.S. Reporter –**

If two or more U.S. Reporters jointly own, directly or indirectly, a foreign affiliate that is required to be reported on Form BE-11B(LF), (SF), or (FN) each U.S. Reporter must submit a Form BE-11B(LF), (SF), or (FN) for the affiliate.



The U.S. Reporter with the highest percentage of ownership (direct and indirect combined) in the foreign affiliate must file a **complete** form, on which all items have been completed. The other U.S. Reporter(s) must file a **partial** form, on which only items 1 through 17 (1 through 18 for Form BE-11B(FN)) of Part I have been completed. If the ownership percentages are the same, the U.S. Reporters must decide which one will file the complete form. Note, however, that in Part II, Sections B and E, and Part III of Form BE-11B(LF) and Part II, Section B, and Part III of Form BE-11B(SF), and Part II, Section B of Form BE-11B(FN), data must be reported by transactor. For example, in Part II, Section B, of Form BE-11B(LF), BE-11B(SF), and BE-11B(FN), Distribution of Sales or Gross Operating Revenues, one transactor category is "to U.S. Reporter(s)" of this affiliate. If the U.S. Reporter filing the complete Form BE-11B(LF), (SF), or (FN) cannot, or prefers not to, secure from the affiliate and report the data concerning the other U.S. Reporters of the affiliate, then each U.S. Reporter is required to report its own data in those sections of Part II. The U.S. Reporter filing the complete Form BE-11B(LF), (SF), or (FN) must attach a note to the form stating that it is not reporting data for the other U.S. Reporter(s) and must so inform the other U.S. Reporter(s).

If two or more Reporters jointly own a foreign affiliate that is required to be reported on Form BE-11C, only the U.S. Reporter having the highest percentage ownership (direct and indirect combined) in the foreign affiliate must file the form.

**(3) Reporting when there is more than one foreign affiliate in a chain of ownership** – A Form BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ) or BE-11C must be filed for a foreign affiliate of the U.S. Reporter that owns another nonexempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt, i.e., a Form BE-11B(LF), (SF), (FN), or (EZ) or BE-11C must be filed for all affiliates upward in a chain of ownership.

**(4) Relationship between Form BE-11A and Forms BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), and BE-11C** – The term "U.S. Reporter" is defined to mean the fully consolidated U.S. domestic business enterprise; therefore, on Forms BE-11B(LF), BE-11B(SF), BE-11B(FN), BE-11B(EZ), and BE-11C, when data on trade and financial relationships between the U.S. Reporter and the foreign affiliate are requested, the data must reflect the foreign affiliate's relationship with the entire U.S. enterprise, not merely with one division, operating unit, or part.

**(5) Banks on U.S. military bases abroad** – Banks located on U.S. military bases abroad servicing base personnel are not considered "foreign" and a Form BE-11B(FN) should not be filed.

**C. Exempt affiliates** – A foreign affiliate is exempt from being reported if it meets any one of the following criteria:

1. It is a nonbank affiliate of a nonbank U.S. Reporter and none of its exemption level items exceeds \$60 million (positive or negative) and it is not required to be filed on the BE-11A Supplement A. *See I.B.2.a.*
2. It is a bank or a nonbank affiliate of a bank U.S. Reporter or a bank affiliate of a nonbank U.S. Reporter and none of its exemption level items exceeds \$250 million (positive or negative) and it is not required to be filed on the BE-11A Supplement A. *See I.B.2.b.*

Note that a minority-owned affiliate that is owned by more than one U.S. Reporter, and that otherwise meets the reporting requirements, must be reported on Form BE-11C even if no one U.S. Reporter owns 20 percent or more.

An affiliate's receivable due from its parent or from other affiliated persons should not be eliminated from total assets when applying the exemption criteria for preparing this report.

If you filed a form for an affiliate in 2007 that is exempt in 2008 and for which you received a pre-printed form, submit the report, and enter the amounts for the three exemption level items and the ownership percentages at the close of fiscal year 2008. If **all** of your affiliates are exempt in 2008, submit a "Claim for Not Filing".

## II. DEFINITIONS

- A. 2008 fiscal year** is the U.S. Reporter's or the foreign affiliate's financial reporting year that has an ending date in calendar year 2008. U.S. Reporters or affiliates having a "52/53 week" fiscal year that ended within the first week of January 2009, are considered to have a 2008 fiscal year for purposes of filing this survey, and should report December 31, 2008 as their 2008 fiscal year end. A business enterprise that does not have a financial reporting year, or does not have a financial reporting year *ending* in calendar year 2008, is deemed to have a fiscal year identical to calendar year 2008. (U.S. Reporters and foreign affiliates that changed the ending date of their financial reporting year in 2008 should contact BEA to determine what reporting period should be used.)
- B. 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 percent or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch.
- C. 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 enterprise. Each of the following are deemed to be associated groups —
  1. Members of the same family,
  2. A business enterprise and one or more of its officers or directors,
  3. Members of a syndicate or joint venture, or
  4. A corporation and its domestic subsidiaries.
- D. Bank** is a business enterprise engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, foreign branches and agencies of U.S. banks whether or not they accept deposits abroad, savings and loans, savings banks, bank holding companies, and financial holding companies under the Gramm-Leach-Bliley Act.
- E. Branch** means the operations or activities conducted by a person in a different location in its own name rather than through an incorporated entity.
- 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. 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.
- H. Foreign affiliate** means an affiliate located outside the United States in which a U.S. person has direct investment. *See II.R.*
- I. Foreign affiliate parent** means a U.S. Reporter's foreign affiliate which has an equity interest in another foreign affiliate of the U.S. Reporter.
- J. Foreign person** means any person resident outside the United States or subject to the jurisdiction of a country other than the United States. *See III.D.*

**K. Fully consolidated U.S. domestic business**

**enterprise means 1)** the U.S. corporation whose voting securities are not owned more than 50 percent by another U.S. corporation, and **2)** proceeding down each ownership chain from that U.S. corporation, any U.S. corporation (including Foreign Sales Corporations located in the United States) whose voting securities are more than 50 percent owned by the U.S. corporation above it. This consolidation excludes foreign branches and all other foreign affiliates.

**Note** – A U.S. Reporter that is not a bank but that owns a majority interest in a U.S. bank — DO NOT consolidate banking activities. *See I.B.1.a.*

**L. Intercompany** means between a U.S. Reporter and its foreign affiliates.

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

**N. Lease** is an arrangement conveying the right to use property, plant, or equipment (i.e., land and/or depreciable assets), usually for a stated period of time.

**1. Capital lease** – A long-term lease under which a sale of the asset is recognized at the inception of the lease. These may be shown as lease contracts or accounts receivable on the lessor's books. The assets would not be considered to be owned by the lessor.

**2. Operating lease** – Generally, a lease with a term which is less than the useful life of the asset and in which a transfer of ownership is not contemplated.

**O. Majority-owned foreign affiliate** means a foreign affiliate in which the combined direct and indirect ownership interest of ALL U.S. REPORTERS of the affiliate exceeds 50 percent.

**P. Minority-owned foreign affiliate** means a foreign affiliate in which the combined direct and indirect ownership interest of at least one U.S. Reporter is 10 percent or more, but the combined direct and indirect ownership interests of all U.S. Reporters of the affiliate is 50 percent or less.

**Q. 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).

**R. U.S. direct investment abroad** means the ownership or control, **directly or indirectly**, by one U.S. person of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

**S. U.S. person** means any person resident in the United States or subject to the jurisdiction of the United States. *See III.D.*

**T. U.S. Reporter** means the U.S. person that has direct investment in a foreign business enterprise, including a branch. If the U.S. person is an incorporated business enterprise, the U.S. Reporter is the fully consolidated U.S. domestic enterprise. *See II.K.*

**U. 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.

### III. CLARIFICATION OF COVERAGE

**A. Determining existence of a foreign affiliate** – In general, a U.S. person's foreign operation or activity is considered a foreign affiliate if it is legally or functionally

separable from the domestic operations or activities of the U.S. person. In most cases, it is clear whether the foreign operation or activity constitutes an affiliate. For example, if the operation or activity is incorporated abroad, as is true in the majority of cases, it is always considered a foreign affiliate. Even if it is unincorporated, the foreign operation or activity is usually legally or functionally separable from the U.S. person's domestic operations or activities. In cases where it is not clearly separable, the determination of whether the operation or activity constitutes a foreign affiliate is made on a case-by-case basis, depending on the weight of the evidence.

Factors that would tend to indicate that the operation or activity is a foreign affiliate are:

1. It pays foreign income taxes.
2. It has a substantial physical presence abroad, as evidenced by plant and equipment, or employees, permanently located abroad.
3. It has separate financial records that would allow preparation of financial statements, including a balance sheet and income statement. (A mere record of disbursements to, or receipts from, the foreign operation or activity would not constitute a "financial statement" for this purpose.)
4. It takes title to the goods it sells and receives revenues from the sale, or it receives funds from customers for its own account for services it performs.

The following characteristics would indicate that the operation or activity is probably **not** a foreign affiliate:

1. It engages only in sales promotion or public relations activities on behalf of the U.S. person.
2. It conducts business abroad only for the U.S. person's account, not for its own account.
3. It has no separate financial records that allow the preparation of financial statements.
4. Its expenses are paid by the U.S. parent.
5. It is not subject to foreign income taxes.
6. It has limited physical assets or few employees permanently located abroad.

**B. U.S. Reporter owned by a foreign person** – A U.S. business enterprise that is a U.S. Reporter in this BE-11 survey may also be a U.S. affiliate of a foreign person that must report in the 2008 BE-15, Annual Survey of Foreign Direct Investment in the United States. This could be the case if the U.S. business enterprise owns foreign affiliates and is also owned 10 percent or more, directly or indirectly, by a foreign person. In such cases, the U.S. business enterprise should report in this survey for any foreign business enterprise it owns or controls, directly or indirectly, at least 10 percent or more, but should not report other property of its foreign owner. (A foreign business enterprise that is jointly owned by the U.S. Reporter and the foreign owner of the U.S. Reporter should be considered a foreign affiliate of the U.S. Reporter provided the U.S. Reporter has a 10 percent or more ownership interest.) For purposes of the BE-11 survey, consider the foreign owner of the U.S. Reporter and the directly and indirectly owned foreign affiliates of the foreign owner (other than those held through the U.S. Reporter), as unaffiliated foreign persons. *See also I.B.1.d.(4).*

**C. Partnerships** – Limited partners do not have control in a partnership and therefore cannot have direct investment in a partnership; their investment is considered to be portfolio investment and is not reportable in this survey. The existence of direct investment in a partnership is based on the country of residence of the general partner(s) and the percentage control exercised by (which may differ from the financial interest of) the general partner(s).

**D. Determining country of residence or jurisdiction of individuals** – An individual is considered a resident of, and subject to the jurisdiction of, the country in which it is physically located, subject to the following qualifications:

1. 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.
2. Individuals who reside, or expect to reside, outside their country of citizenship for one year are considered to be residents of the country in which they are residing. There are two exceptions to this rule:
  - a. Individuals (and their immediate families) who either own or are employed by a business in their country of citizenship and who are residing outside of that country for one year or more in order to conduct business for the enterprise are considered residents of their country of citizenship if they intend to return within a reasonable period of time.
  - b. Individuals who reside outside their country of citizenship because they are government employees (such as diplomats, consular officials, members of the armed forces, and their immediate families) are considered residents of their country of citizenship regardless of their length of stay.

**E. Foreign affiliate operating completely outside its country of incorporation** – If a foreign affiliate conducts all its operations from, and is located in, a single foreign country that is different from its country of incorporation, it is deemed to be operating totally outside its country of incorporation. File a single BE-11B(LF), (SF), (FN) or (EZ) or BE-11C report for the entity in the country of operation treating it as an incorporated foreign affiliate; do not file a separate BE-11B(LF), (SF), (FN) or (EZ) or BE-11C report for the entity in the foreign country of incorporation. If, however, the foreign affiliate has any of the following in the country of incorporation:

1. bank account,
2. employees,
3. property, plant, or equipment, or
4. sales,

It is considered to have operations in its foreign country of incorporation and, therefore, a separate BE-11B(LF), (SF), (FN), or (EZ) or BE-11C report must be filed for the entity in that country.

If a foreign affiliate incorporated abroad conducts its operations from, and has locations in, more than one foreign country, a separate Form BE-11B(LF), (SF), (FN), or (EZ) or BE-11C must be filed for each country in which it has operations, and a separate Form BE-11B(LF), (SF), (FN), or (EZ) or BE-11C must be filed for the entity in the foreign country of incorporation, treating the entity as an incorporated foreign affiliate in that country.

If a foreign affiliate incorporated abroad conducts its business operations from, and is located in, the United States, you must file a Form BE-11B/C to report the equity investment in the affiliate and the affiliate's income. Show country of incorporation as country of location **and report the affiliate as a holding company (ISI code 5512)**. You must report the operating business enterprise located in the United States on the BE-15, Annual Survey of Foreign Direct Investment in the United States.

**F. Agencies and representative offices** – Foreign representative offices, agents and employees of a U.S. person are not considered to be foreign affiliates, and therefore, they should not be reported on Forms BE-11B or BE-11C. However, a U.S. Reporter's disbursements to maintain foreign sales and

representative offices must be reported on Form BE-125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons. Copies of Form BE-125 are available on the BEA Web site [www.bea.gov](http://www.bea.gov). (Select International Survey Forms and Related Materials – U.S. International Services Transactions.) A foreign presence of a U.S. person is considered a foreign sales promotion or representative office if: **1.** it has no assets (other than office furniture) held either in its own name or in the name of the U.S. person, **2.** to the extent that its employees are compensated by commissions, the commissions arise only from sales or business that the employees generate for the U.S. person, **3.** it does not produce revenue (other than funds from the U.S. person to cover its expenses), and **4.** it is engaged only in sales promotion, representational activities, public relations activities, or the gathering of market information, on behalf of the U.S. person. A foreign presence that produces revenue for its own account (instead of, or in addition to, producing revenue for the account of its U.S. parent) from goods or services it provides to unaffiliated persons is considered a foreign affiliate and is subject to the reporting requirements.

**G. Real estate** – The ownership of foreign real estate is defined to be a business enterprise and, if foreign real estate is owned by a U.S. person, it is a foreign affiliate of a U.S. Reporter. A Form BE-11B(LF), (SF), (FN), or (EZ) or BE-11C is required unless the enterprise is otherwise exempt.

Real estate that is normally included in the property, plant, and equipment account of a foreign affiliate is not to be reported as a separate affiliate.

Residential real estate held exclusively by a U.S. person for personal use and not for profitmaking purposes is not subject to the reporting requirements. A primary residence abroad that is leased to others while the owner is a U.S. resident, but which the owner intends to reoccupy, is considered real estate held for personal use.

Ownership of foreign residential real estate by a business enterprise, the sole purpose of which is to hold the real estate for the personal use of the owner(s) of the business enterprise, is considered to be real estate held for personal use and therefore not subject to the reporting requirements.

If a U.S. person has a direct or indirect voting ownership interest of 10 percent or more in a joint venture, partnership, etc., that is formed to own and hold, develop, or operate real estate, the joint venture, partnership etc., in its entirety, not just the U.S. person's share, is a foreign affiliate and must be reported unless otherwise exempt.

**H. Airlines and ship operators** – U.S. airlines' and ship operators' foreign stations, ticket offices, and terminal and port facilities that provide services **only** to their own operations are not foreign affiliates and are not subject to the reporting requirements. Reports are required when such facilities produce significant revenues from services provided to unaffiliated persons.

**I. Estates, trusts, and intermediaries**

1. A U.S. estate is a person and, therefore, may have direct investment; the estate, not the beneficiary, is considered to be the U.S. Reporter. Thus, ownership of a foreign affiliate by a U.S. estate shall be reported by the administrator, executor, etc., of the estate and not by the beneficiary.
2. A trust, either U.S. or foreign, is a person, but is not a business enterprise. A trust is considered the same as an intermediary and thus should be reported as outlined in III.I.3. For reporting purposes, the beneficiary(ies) of a trust, or the creator(s) of a trust (as detailed in the next sentence), or, if there is, or



may be, a reversionary interest, are considered to be the owner(s) of the investments of the trust for determining the existence of direct investment. When a corporation or other organization creates a trust designating its shareholders or members as beneficiaries, the creating corporation or organization is deemed to be the owner of the investments of the trust, or succeeding trusts where the presently existing trust has evolved out of a prior trust, for purposes of determining the existence and reporting of direct investment.

This procedure is adopted to fulfill statistical purposes of this survey and does not imply that control over an enterprise owned or controlled by a trust is, or can be, exercised by the beneficiary(ies) or creator(s).

### 3. Intermediary

- a. If a particular U.S. direct investment abroad is held, exercised, administered, or managed by a U.S. intermediary, such intermediary is responsible for reporting the required information for, and in the name of, its principal or shall instruct the principal to submit the required information. Upon instructing the principal, the intermediary shall be released from further liability to report, provided it has informed BEA of the date such instructions were given and the name and address of the principal, and has supplied the principal with any information in the possession of, or which can be secured by, the intermediary that is necessary to permit the principal to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with the foreign affiliate are considered as accounts or transactions of the U.S. principal with the foreign affiliate. To the extent such transactions or accounts are unavailable to the principal, they may be required to be reported by the intermediary.
- b. If a U.S. person holds a foreign affiliate through a foreign intermediary, the U.S. person is considered to own the foreign affiliate directly and all accounts or transactions of the U.S. person with the intermediary are considered to be with the foreign affiliate.

## IV. GENERAL INSTRUCTIONS

**A. Accounting methods and records** – Follow generally accepted U.S. accounting principles unless otherwise directed. Corporations should generally use the same methods and records that are used to generate reports to stockholders, except where otherwise instructed. Generate reports for unincorporated persons on an equivalent basis.

Financial Accounting Standards Board statements are referred to as "FAS (statement number)" in the instructions.

### B. Translation of foreign currency financial and operating data into U.S. dollars

1. **Financial statements** – Translate foreign affiliate financial statements, i.e., balance sheets and income statements, not maintained in U.S. dollars from the host country currency to U.S. dollars using FAS 52, as would be required to incorporate foreign statements into the U.S. Reporter's financial statements for reports to shareholders.
2. **Other financial and operating data of foreign affiliate** – According to FAS 52, "Revenue and expense transactions shall be translated in a manner that produces approximately the same dollar amounts that would have resulted had the underlying transactions been translated into dollars on the dates they occurred."

Since separate translation of each transaction is usually impractical, the specific result can be achieved by using an average rate for the period.

On Forms BE-11B(LF), (SF), (FN), and (EZ) and BE-11C, certain revenue and expense transactions that may not be translated separately for the financial statements, such as employee compensation and exports and imports, must be reported. Translate these transactions in a manner consistent with that used to translate the financial statements to U.S. dollars.

**C. Method of accounting for equity investments – Forms BE-11B(LF), (SF), (FN), and (EZ) and BE-11C** – Report a foreign affiliate parent's equity investments of 20 percent or more in unconsolidated foreign affiliates, including all unconsolidated majority-owned foreign affiliates, using the equity method of accounting. Report equity investments of less than 20 percent, in accordance with FAS 115 or lower of cost or market, as appropriate. See important note on foreign affiliate consolidation rules under instruction *I.B.2.e*.

**Note** – If it is determined that there is a material difference between the "equity" and the "cost" methods and the data should have been filed using the "equity" method, BEA will require that the data be refiled.

**D. Industry classification** – A list and explanation of the industry classifications used are given in the **Guide to Industry Classifications for International Surveys, 2002**, (BE-799), which is included as part of the BE-11 report package.

**E. Estimates** – If actual data are not available, or only partial data are available, estimates should be supplied and labeled as such. When data items cannot be fully subdivided as required, provide totals and an estimated breakdown of the totals.

Certain sections of Forms BE-11A and BE-11B require data that may not be maintained in your customary accounting records. Providing precise data in these areas may require substantial burden beyond what is intended by BEA. This may be especially true for:

- BE-11A, Part III, Section A – Distribution of sales or gross operating revenues by whether the sales were goods, services, or investment income;
- BE-11A, Part III, Section C – Number of employees and employee compensation by Standard Occupation Classification;
- BE-11A, Part IV, – Exports and imports of the U.S. Reporter on a shipped basis;
- BE-11B(LF), Part II, Section B – Distribution of sales or gross operating revenues, by transactor and by whether the sales were goods, services, or investment income;
- BE-11B(LF), BE-11B(SF), and BE-11B(FN), Part II, Section C – Number of employees and employee compensation by Standard Occupation Classification;
- BE-11B(LF), Part II, Section E – Composition of external finances by transactor; and
- BE-11B(LF), Part III, and BE-11B(SF), Part III, – Exports and imports of the foreign affiliate on a shipped basis.

Data provided in these sections may be reasonable estimates based upon the informed judgement of persons in the responding organization, sampling techniques, prorations based on related data, etc. Consistently apply estimating procedures used on all BEA surveys.

**F. Space on form insufficient** – When space on a form is insufficient to permit a full answer to any item, submit the required information on supplementary sheets, appropriately labeled and referenced to the item number and the form.

## V. U.S. EXPORTS AND IMPORTS OF GOODS

When there is a material difference between the "charged" and "shipped" bases and the data have not been filed on the "shipped" basis, or the necessary adjustments have not been made to approximate a "shipped" basis, then BEA will require the data to be refiled.

Differences between the "charged" and "shipped" bases may be substantial. A major difference arises when the U.S. Reporter buys goods in country A and sells them in country B, but the goods are shipped directly from country A to country B. Because the goods did not physically enter or leave the United States, they are not U.S. trade. However, when the U.S. Reporter records the transactions on its books, it shows a purchase charged to it from country A and a sale charged by it to country B. If the U.S. Reporter's trade data in this survey were prepared on the "charged" basis, the purchase and sale would appear incorrectly as a U.S. import and a U.S. export, respectively. Other differences arise when the U.S. Reporter charges the sale of its products to a foreign affiliate in one country, but ships the goods directly from the United States to an unaffiliated foreigner in another country. If the data are on the "shipped" basis, this is a U.S. export to an unaffiliated foreigner, not to the foreign affiliate and should not be recorded on the form for the foreign affiliate.

If a material difference exists between the "charged" and "shipped" bases, trade must be reported on the "shipped" basis. To do this, the U.S. Reporter may have to derive the data from export and import declarations filed with U.S. Customs and Border Protection or from shipping and receiving documents, rather than from accounting records, or may have to otherwise adjust its data from a "charged" to a "shipped" basis.

**A. Timing.** Only include goods actually shipped between the United States and the affiliate during FY 2008 regardless of when the goods were charged or consigned. For example, include goods shipped by the U.S. Reporter to the affiliate in FY 2008 that were charged or consigned in FY 2009 but exclude goods shipped to the affiliate in FY 2007 that were charged or consigned to the affiliate in FY 2008.

**B. Trade of the U.S. Reporter.** Goods shipped by, or to, the U.S. Reporter, whether or not actually charged or consigned by, or to, the U.S. Reporter, are considered to be trade of the U.S. Reporter.

**C. Trade of a foreign affiliate.** Goods shipped by, or to, a foreign affiliate, whether or not actually charged or consigned by, or to, the foreign affiliate are considered to be trade of the foreign affiliate.

**D. By (or to) whom goods were shipped.** Shipment by, or to, an entity refers to the physical movement of goods to or from the U.S. customs area by, or to, that entity regardless of by, or to whom the goods were charged or consigned. For example, if the U.S. Reporter charges goods to a German affiliate but ships them to an Italian affiliate, the goods should be recorded as U.S. exports shipped by the U.S. Reporter on the Form BE-11B(LF), (SF), (EZ), or BE-11C, of the Italian affiliate, but not on that of the German affiliate. Similarly, if goods were charged by the U.S. Reporter to an affiliate but shipped to the affiliate by another U.S. person, the goods should be considered a U.S. export shipped by "other U.S. persons," not by the U.S. Reporter, on the affiliate's Form BE-11B(LF), (SF), (EZ), or BE-11C.

**Note – Goods shipped by an independent carrier or a freight forwarder at the expense of an entity are shipments by that entity.**

**E. Valuation of exports and imports.** Value U.S. exports and imports f.a.s. (free alongside ship) at the port of exportation. This includes all costs incurred up to the

point of loading the goods aboard the export carrier at the U.S. or foreign port of exportation, including the selling price at the interior point of shipment (or cost if not sold), packaging costs, and inland freight and insurance. It excludes all subsequent costs, such as loading costs, U.S. and foreign import duties, and freight and insurance from the port of exportation to the port of entry.

## VI. FILING THE BE-11

- A. Due date** – A fully completed and certified BE-11 report comprising Form BE-11A and Forms BE-11B(LF), (SF), (FN), (EZ), or BE-11C (as required) is due to be filed with BEA by May 29, 2009.
- B. Extensions** – For the timely dissemination of the survey results, it is important that your report be filed by the due date. However, a written request for an extension will be considered provided it is received at least 15 days prior to the due date of the report and enumerates substantive reasons necessitating the extension. BEA will provide a written response to such requests.
- C. Assistance** – For assistance, telephone (202) 606-5566 between 8:00 a.m. and 4:30 p.m., eastern time, or e-mail BEA at [be10/11@bea.gov](mailto:be10/11@bea.gov).
- D. Retention of copies** – Each U.S. Reporter must retain a copy of its report to facilitate resolution of problems. These copies should be retained by the U.S. Reporter for at least 3 years after the report's original due date.
- E. Where to send the report** – Send reports filed by mail through the U.S. Postal Service to:
- U.S. Department of Commerce  
Bureau of Economic Analysis  
BE-69(A)  
Washington, DC 20230
- Send reports filed by direct private delivery to:
- U.S. Department of Commerce  
Bureau of Economic Analysis, BE-69(A)  
Shipping & Receiving Section M-100  
1441 L Street, N.W.  
Washington, DC 20005
- F. Confidentiality** – The information filed in this report may be used only for analytical and statistical purposes and access to the information shall be available only to officials and employees (including consultants and contractors and their employees) of agencies designated by the President to perform functions under the Act. The President may authorize the exchange of the information between agencies or officials designated to perform functions under the Act, but only for analytical and statistical purposes. No official or employee (including consultants and contractors and their employees) shall publish or make available any information collected under the Act in such a manner that the person to whom the information relates can be specifically identified. Reports and copies of reports prepared pursuant to the Act are confidential and their submission or disclosure shall not be compelled by any person without the prior written permission of the person filing the report and the customer of such person where the information supplied is identifiable as being derived from the records of such customer (22 U.S.C. 3104).
- G. Annual stockholders' report and Form 10K** – Business enterprises issuing annual reports to stockholders and completing Securities and Exchange Commission's Form-10K should furnish copies of these reports for FY 2008 when filing the BE-11 report.



## 2008 BE-11 ORDER FORM

To obtain additional copies of BE-11 forms and instructions, go to the BEA Web site [www.bea.gov](http://www.bea.gov) or complete this order form and return it to BEA. See the instructions in the box at the bottom to access the forms from the BEA Web site.

*Enter the quantity of each item you require:*

Item	Quantity	Item	Quantity
Form BE-11A		Instruction Booklet	
Form BE-11B(LF)		Guide to Industry Classifications for International Surveys, 2002	
Form BE-11B(SF)			
Form BE-11B(FN)		Claim for Not Filing (BE-11)	
Form BE-11C			

*PLEASE COMPLETE BELOW*

Name of U.S. Reporter

Attention:

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City, State, ZIP Code

**RETURN TO**

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Bureau of Economic Analysis, BE-69(A)  
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Telephone: 202-606-5566

FAX: 202-606-5312

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