

§ 800.214

person,” and its acquisition of a U.S. person would not be subject to section 721.

Example 2. Same facts as in the first two sentences of Example 1, except that Country A through governmental intervenors exercises full decision-making power over Corporation A, including the decisions described in § 800.204 (a) through (e). There is a foreign interest which is exercising control over Corporation A, which is a “foreign person.”

Example 3. Corporation A is organized under the laws of a foreign state and is owned and controlled by a foreign national. Through a branch, Corporation A engages in business in the United States. Corporation A and/or its branch is a “foreign person” should Corporation A make an acquisition. Its branch business in the United States is also a “U.S. person” which may be the subject of an acquisition.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.214 Hold.

The terms *hold(s)* and *holding* mean legal or beneficial ownership, whether direct or indirect, through fiduciaries, agents or other means.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.215 Parent.

The term *parent*, as used in §§ 800.302 and 800.402, means a person who or which, directly or indirectly,

(a) Holds or will hold 50 percent or more of the outstanding voting securities of an entity; or

(b) In case of an entity that has no outstanding voting securities, holds or will hold the right to 50 percent or more of the profits of the entity, or has or will have the right in the event of the dissolution to 50 percent or more of the assets of the entity.

Example. Corporation P holds 50 percent of the voting securities of Corporations R and S. Corporation R holds 40 percent of the voting securities of Corporation X, and Corporation S holds 50 percent of the voting securities of Corporation Y. Corporation P is a parent of Corporations R, S and Y, but not of Corporation X. Corporation S is a parent of Corporation Y because it holds 50 percent of the voting securities of Corporation Y.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

31 CFR Ch. VIII (7–1–02 Edition)

§ 800.216 A party or parties to an acquisition.

The terms *party to an acquisition* and *parties to an acquisition* mean:

(a) In the case of an acquisition of a person by the purchase of its voting securities, the person acquiring the voting securities, and the person issuing those voting securities;

(b) In the case of a merger, the surviving person, and the person or persons that lose its or their separate pre-merger identity;

(c) In the case of an acquisition of an entity or a business of an entity, the person acquiring or seeking to acquire that entity or business, and the person selling that entity or business;

(d) In the case of a consolidation, the entities being consolidated, and the new consolidated entity;

(e) In the case of a proxy solicitation, the person soliciting proxies, and the person who issued the voting securities.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.217 Person.

The term *person* means any natural person or entity.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.218 Section 721.

The term *Section 721* means section 721 of title VII of the Defense Production Act of 1950, 50 U.S.C. App. 2171, as added by section 5021 of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418, 102 Stat. 1107.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.219 Solely for the purpose of investment.

(a) Voting securities are held or acquired “solely for the purpose of investment” if the person holding or acquiring such voting securities has no intention of determining or directing the basic business decisions of the issuer, including those at § 800.204(a) (1) through (5).

(b) Voting securities are not held solely for the purpose of investment if the person holding or acquiring such voting securities:

(1) Possesses or develops any purpose other than investment, or

(2) Takes any action inconsistent with acquiring or holding such securities solely for the purpose of investment.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.220 United States.

The term *United States* means the United States of America, the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1131 (a)). For purposes of these regulations and their examples, an entity organized under the laws of the United States of America, one of the States, the District of Columbia, or a commonwealth, territory, dependency or possession of the United States, is an entity organized "in the United States."

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.221 United States national.

The term *United States national* or *U.S. national* means a citizen of the United States or a natural person who, although not a citizen of the United States, owes permanent allegiance to the United States.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

§ 800.222 United States person.

The term *U.S. person* or *United States person* means any natural person or entity but, in the case of the latter, only to the extent of its business activities in interstate commerce in the United States, irrespective of the nationality of the natural persons or entities which control it.

Example 1. Corporation A is organized under the laws of a foreign state and is wholly owned and controlled by a foreign national. It engages in business activities in a state of the U.S. through a branch office or subsidiary. That branch office or subsidiary of Corporation A is an "entity" and a "U.S. person." The branch office or subsidiary is also a foreign person under § 800.213.

Example 2. Same facts as in the first sentence of Example 1. Corporation A, however, does not have a branch office, subsidiary or fixed place of business in the United States. It exports and licenses technology to an unrelated company in the United States. Corporation A is not a "U.S. person."

Example 3. Corporation A is organized under the laws of a foreign state and is wholly owned and controlled by Corporation X. Corporation X is organized in the United States and is wholly owned and controlled by U.S. nationals. Corporation A does not have a branch office, subsidiary, or fixed place of business in the United States. It exports goods to Corporation X and to unrelated companies in the United States. The sale of Corporation A by Corporation X to a foreign person would not constitute an acquisition of a U.S. person for purposes of section 721.

[56 FR 58780, Nov. 21, 1991. Redesignated and amended at 59 FR 27179, May 25, 1994]

§ 800.223 Voting securities.

The term *voting securities* means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer, or, with respect to unincorporated entities, individuals exercising similar functions.

[56 FR 58780, Nov. 21, 1991. Redesignated at 59 FR 27179, May 25, 1994]

Subpart C—Coverage

§ 800.301 Transactions that are acquisitions under section 721.

(a) Section 721 applies to acquisitions:

(1) Proposed or pending on or after the effective date

(2) By or with foreign persons

(3) Which could result in foreign control of persons engaged in interstate commerce in the United States.

(b) Transactions that are acquisitions under section 721 include, without limitation:

(1) Proposed or completed acquisitions by or with foreign persons which could or did result in foreign control of a U.S. person, irrespective of the actual arrangements for control planned or in place for that particular acquisition.

Example 1. Corporation A, a foreign person, proposes to purchase all the shares in Corporation X, which is organized in the United States and engages in interstate commerce in the United States.