

the acquiring foreign person or any affiliate of the acquiring foreign person; or

(D) Holds any contingent interest (e.g., such as might arise from a lending transaction) in the foreign acquiring party and, if so, the rights that are covered by this contingent interest, and the manner in which they would be enforced.

(d) The voluntary notice shall list any filings with or reports to agencies of the United States Government which have been or will be made in respect of the acquisition prior to its closing indicating the agencies concerned, the nature of the filing or report, the date by which it was filed or the estimated date by which it will be filed, and a relevant telephone number and/or contact point within the agency, if known.

Example. Corporation A, a foreign person, intends to acquire Corporation X, which is wholly owned and controlled by a U.S. national, and which has a Facility Security Clearance under the Department of Defense Industrial Security Program. See Department of Defense, "Industrial Security Regulation," DOD 5220.22-R, and "Industrial Security Manual for Safeguarding Classified Information," DOD 5220.22-M. Corporation X accordingly files a revised Form DD 441s, and enters into discussions with the Defense Investigative Service about effectively insulating its facilities from the foreign interest.

Paragraph (d) requires that certain specific information about these steps be reported to the Committee in a voluntary notice.

(e) In the case of a joint venture subject to section 721, information for the voluntary notice shall be prepared on the assumption that the foreign person which is party to the joint venture has made an acquisition of the business or businesses that the U.S. person which is a party to the joint venture is contributing or transferring to the joint venture. In addition, the voluntary notice shall describe the name and address of the joint venture or other corporation.

(f) In the case of acquisitions of some but not all of the businesses or assets of a U.S. person, §800.402(c) only requires submission of the specified information with respect to the business or assets that have been or are proposed to be acquired.

(g) Persons filing a voluntary notice shall, in respect of the foreign person making the acquisition, its parent and affiliates, the U.S. person being acquired, and each entity of which it is a parent, append to the voluntary notice the most recent annual report of each such entity, if available. Separate reports are not required for any entity whose financial results are included within the consolidated financial results stated in the annual report of any direct or indirect parent of any such entity.

(h) Persons filing a voluntary notice shall, during the time that the matter is pending before the Committee or the President, promptly advise the Staff Chairman of any material changes in plans or information provided to the Committee. See also §800.701(a).

(i) Persons filing a voluntary notice shall include a copy of the most recent asset or stock purchase agreement or other document establishing the terms of the acquisition.

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

§800.403 Treatment of certain voluntary notices.

The Committee, acting through the Staff Chairman, may

(a) Reject voluntary notices not complying with §800.402;

(b) Delay the beginning of the thirty-day review period until information specified in §800.402 has been furnished to the Committee;

(c) Reject any voluntary notice at any time if, after the notice has been submitted and before action by the Committee or the President has been concluded, there is a material change in the transaction as to which notification has been made; and

(d) Notify the party submitting a voluntary notice that an analysis of national security considerations will not be undertaken in cases where the Committee has found that a transaction presented is not subject to section 721.

Example 1. The Staff Chairman receives a joint filing by Corporation A, a foreign person, and Corporation X, a company that is owned and controlled by U.S. nationals, with respect to Corporation A's intent to purchase all of the shares of Corporation X. The joint filing does not contain any information

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described under § 800.402(c)(3) (iv) and (v) concerning classified materials and products or services supplied to the U.S. military services. The Staff Chairman may (1) reject the filing, or (2) delay the start of the thirty-day review period while the parties are asked to supply the omitted information.

Example 2. Same facts as in first sentence of Example 1, except that the joint filing indicates that Corporation A does not intend to purchase Corporation X's Division Y, which is engaged in classified work for a U.S. Government agency. Corporations A and X notify the Committee on the 25th day of the 30-day notice period that Division Y will also be acquired by Corporation A. This fact constitutes a material change with respect to the transaction as originally notified, and the Staff Chairman may reject the notice.

Example 3. The Staff Chairman receives a joint filing by Corporation A, a foreign person, and Corporation X, a company that is owned and controlled by U.S. nationals, indicating that Corporation A intends to purchase 10.5 percent of the voting securities of Corporation X. Under the particular facts and circumstances presented, the Committee concluded that Corporation A's purchase of this interest in Corporation X would not constitute control as defined in § 800.204. The Staff Chairman may advise the parties in writing that the transaction as presented is not subject to section 721 and that no analysis of national security considerations has been undertaken.

§ 800.404 Beginning of thirty-day review period.

(a) A thirty-day period for review of the acquisition shall be deemed to commence on the next calendar day after voluntary notice has been accepted, agency notice has been received by the Staff Chairman of the Committee, or the Chairman of the Committee has requested an investigation pursuant to § 800.401. Such review shall end no later than the thirtieth day after it has commenced, or if the thirtieth day is not a business day, no later than the next business day after the thirtieth day.

(b) Within two business days after its receipt by the Staff Chairman, the Staff Chairman of the Committee shall send written advice of an agency notice to the parties to an acquisition.

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Subpart E—Committee Procedures: Review and Investigation

§ 800.501 General.

(a) The Committee's review or investigation (if it has been determined that an investigation shall be conducted) shall examine, as appropriate, whether:

(1) The acquisition is by or with a foreign person and could result in control by a foreign person of a U.S. person or persons engaged in interstate commerce in the United States;

(2) There is credible evidence to support a belief that the foreign interest exercising control of the U.S. person to be acquired might take action that threatens to impair the national security; and

(3) Provisions of law, other than section 721 and the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), provide adequate and appropriate authority to protect the national security.

(b) During the thirty-day review period or during an investigation, the Staff Chairman may invite the parties to a notified transaction to attend a meeting with the Committee staff to discuss and clarify issues pertaining to the transaction. During an investigation, a party to the investigated transaction may request a meeting with the Committee staff; such a request ordinarily will be granted.

§ 800.502 Determination not to investigate.

(a) If the Committee determines, during the review period described in § 800.404, not to undertake an investigation, such determination shall conclude action under section 721.

(b) The Staff Chairman of the Committee shall promptly advise the parties to an acquisition of a determination not to investigate.

§ 800.503 Commencement of investigation.

(a) If it is determined that an investigation should be undertaken, such investigation shall commence no later