

Monetary Offices, Treasury

§ 128.21

required under subpart C of this part will not be disclosed publicly. Aggregated data may be published or disclosed only in a manner which will not reveal the information reported by any individual respondent. The Department may furnish to Federal agencies, the Board of Governors of the Federal Reserve System, and to Federal Reserve district banks data reported pursuant to subpart C of this part to the extent permitted by applicable law.

§ 128.4 Penalties.

(a) Whoever fails to file a report required by subpart B of this part shall be subject to a civil penalty of not less than \$2,500 and not more than \$25,000

(b) Whoever willfully fails to file a report required by subpart B of this part may be criminally prosecuted and upon conviction fined not more than \$10,000 and, if an individual (including any officer, director, employee, or agent of any corporation who knowingly participates in such violation), may be imprisoned for not more than one year, or both.

(c) Whoever fails to file a report required by subpart C of this part shall be subject to a civil penalty of not more than \$10,000.

§ 128.5 Recordkeeping requirements.

Banks, other depository institutions, International Banking Facilities, bank holding companies, brokers and dealers, and nonbanking enterprises subject to the jurisdiction of the United States shall maintain all information necessary to make a complete report pursuant to this Part for not less than three years from the date such report is required to be filed or was filed, whichever is later, or for such shorter period as may be specified in the instructions to the applicable report form.

(Approved by the Office of Management and Budget under control number 1505-0149)

Subpart B—Reports on International Capital Transactions and Positions

§ 128.11 Purpose of reports.

Reports on international capital transactions and positions provide

timely and reliable information on international portfolio capital movements by U.S. persons. This information is needed for preparation of the capital accounts of the United States balance of payments and the international investment position of the United States.

§ 128.12 Periodic reports.

(a) *International capital positions.* (1) Banks and other depository institutions, International Banking Facilities, bank holding companies, and brokers and dealers in the United States shall file monthly, quarterly and semi-annual reports with respect to specified claims and liabilities positions with foreigners held for their own account and for the accounts of their customers.

(2) Nonbanking enterprises in the United States not described in § 128.12(a)(1) shall file monthly and quarterly reports with respect to deposits and certificates of deposit with banks outside the United States and specified claims and liabilities positions with unaffiliated foreigners.

(b) *Transactions in certain domestic and foreign long-term securities.* Banks and nonbanking enterprises in the United States shall file monthly reports on their transactions in domestic and foreign long-term securities or other financial assets with foreign residents.

(c) *Notice of periodic reports.* Notice of periodic reports will be published in accordance with § 128.1(c).

§ 128.13 Special survey reports.

The Secretary may prescribe special survey reports at such times as the Secretary determines there is a need for detailed information on the aggregate data derived from current periodic reports or to provide additional qualitative information with respect to such data. Notice of special survey reports will be published in accordance with § 128.1(c).

Subpart C—Reports on Foreign Currency Positions

§ 128.21 Purpose of reports.

Reports by respondents on foreign currency positions provide data on the

§ 128.22

nature and source of flows of mobile capital, including transactions by large United States business enterprises (as determined by the Secretary) and their foreign affiliates as required by 31 U.S.C. 5315.

§ 128.22 Periodic reports.

Respondents shall file reports weekly, monthly and quarterly on the value of such items as outstanding foreign exchange contracts, dealing positions, derivative foreign currency instruments, and other assets and liabilities denominated in the currencies specified on the forms. Notice of periodic reports will be published in accordance with § 128.1(c).

§ 128.23 Special survey reports.

The Secretary may prescribe special survey reports with respect to foreign exchange positions and related information at such times as the Secretary determines that there is a need for prompt or expanded information on current conditions in the foreign exchange markets. Notice of special survey reports will be published in accordance with § 128.1(c).

APPENDIX A TO PART 128—DETERMINATION MADE BY NATIONAL ADVISORY COUNCIL PURSUANT TO SECTION 2 (a) AND (b) OF E.O. 10033

I. Determination of the National Advisory Council pursuant to E.O. 10033

In an action dated September 7, 1965, the National Advisory Council on International Monetary and Financial Problems made the following determination pursuant to section 2(a) of E.O. 10033 of February 8, 1949.

Action 65 (E.O.)-49. The National Advisory Council, having consulted with the Director of the Bureau of the Budget, determines the current information with respect to international capital movements, derived from data on U.S. liabilities to and claims on foreigners and transactions in securities with foreigners, and current information with respect to U.S. gold holdings, foreign-currency holdings, and dollar liabilities to foreigners, are essential in order that the United States may comply with official requests of the International Monetary Fund for information with respect to the U.S. balance of payments and monetary reserves.

Action No. 320, March 17, 1949 is superseded by this determination and is hereby revoked.

31 CFR Ch. I (7-1-08 Edition)

II. Designation of the Treasury Department by the Director of the Bureau of the Budget pursuant to section 2(b) of E.O. 10033.

On December 1, 1965, the Treasury Department was designated, pursuant to section 2(b) of E.O. 10033 of February 8, 1949, to collect information for the International Monetary Fund under the National Advisory Council determination of September 7, 1965. The letter containing the designation reads as follows:

December 1, 1965.

Hon. Henry H. Fowler,
Secretary of the Treasury, Washington, DC 20220.

Dear Mr. Secretary: On September 7, 1965, the National Advisory Council after consultation with this Bureau in accordance with section 2(a) of Executive Order 10033, made the following determination (Action 65 (E.O.)-49):

“The National Advisory Council, having consulted with the Director of the Bureau of the Budget, determines that current information with respect to international capital movements, derived from data on U.S. liabilities to claims on foreigners and transactions in securities with foreigners, and current information with respect to U.S. gold holdings, foreign-currency holdings, and dollar liabilities to foreigners, are essential in order that the United States may comply with official requests of the International Monetary Fund for information with respect to the U.S. balance of payments and monetary reserves.”

It is hereby determined pursuant to section 2(b) of Executive Order 10033, that the Treasury Department shall collect information pertaining to capital movements between the United States and foreign countries and pertaining to the monetary reserves of the United States, except information pertaining to direct-investment transactions, U.S. Government foreign lending operations, and claims and liabilities of U.S. Government agencies (other than public debt obligations), which is collected by the Department of Commerce.

This letter supersedes the earlier determination as to the responsibilities of the Treasury Department in this area, dated April 21, 1949, as amended May 4, 1950.

Sincerely yours,

Raymond T. Bowman,
Assistant Director for Statistical Standards.

PART 129—PORTFOLIO INVESTMENT SURVEY REPORTING

Sec.
129.1 Purpose.
129.2 Definitions.