

TITLE 20: DEPARTMENT OF COMMERCE

**SUBCHAPTER 20-30.2
FOREIGN INVESTMENT REGULATIONS**

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Subchapter Authority: 1 CMC §§ 2453 and 2454.

Subchapter History: Amdts Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Amdts Proposed 31 Com. Reg. 29224 (Feb. 25, 2009); Amdts Proposed 26 Com. Reg. 22230 (Apr. 23, 2004); Amdts Adopted 18 Com. Reg. 14314 (Aug. 15, 1996); Amdts Proposed 18 Com. Reg. 14201 (July 15, 1996); Amdts Adopted 18 Com. Reg. 13925 (Jan. 15, 1996); Amdts Proposed 17 Com. Reg. 13871 (Dec. 15, 1995); Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992); Adopted 5 Com. Reg. 1782 (Jan. 31, 1983); Proposed 4 Com. Reg. 1679 (Nov. 22, 1982).

Commission Comment: 1 CMC § 2451 originally created the Department of Commerce and Labor. 1 CMC § 2454 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 103:

Section 103. Department of Commerce.

The Department of Commerce and Labor is redesignated the Department of Commerce.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 10-44 (effective February 7, 1997), codified as amended at 4 CMC §§ 5901-5972, enacted the 1995 Foreign Investments Regulations, published as part II of the Commerce Rules and Regulations at 17 Com. Reg. 12729, 12736 (Jan. 15, 1995), and the amendments adopted at 18 Com. Reg. 14314 (Aug. 15, 1996) as statutory law.

PL 10-44 § 7 provided:

Section 7. Regulations Enacted as Statute.

(a) Except as provided by subsections (b), (c), and (d), the Department of Commerce's rules and regulations governing foreign investments in the Commonwealth, adopted January 13,

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1995, in the Commonwealth Register, Volume 17, Number 1, beginning at page 5, as amended in the Commonwealth Register, Volume 18, Number 8, are hereby incorporated by reference and enacted as statutory law. The Commonwealth Law Revision Commission shall codify these rules and regulations in the appropriate Commonwealth Code statutory format.

(b) Section 1001, B., 3., a., entitled Evaluation Factors - New Enterprises, and Section 1001, B., 3., a., entitled Evaluation Factors - Existing Enterprises, are not incorporated by reference and are rescinded and reenacted to read:

“3. a. The amount of capital invested or to be invested by the Alien Investor, shall not be less than \$150,000.”

“4. a. The amount of capital invested or to be invested by the Alien Investor, shall not be less than \$150,000 in a public organization or not less than \$250,000, in a private investment.”

(c) Section 1001, A., 1., is not incorporated by reference and is rescinded and reenacted to read: “1. A holder of a long term business certificate entitles the Alien Investor to lawfully engage in business in the Commonwealth for a period of two (2) years; Provided, however, that the Alien Investor shall provide a security deposit in the sum of \$100,000 on deposit in a banking or trust institution approved by the Secretary of the Department of Finance. Exclusive authorized signature authority for the security deposit shall be the Secretary of the Department of Commerce. The security deposit may be withdrawn only upon dissolution of the business. Any funds remaining on deposit, after all applicable taxes are fully satisfied, shall be used to pay for any and all unpaid accounts with creditors in the Commonwealth. Any funds remaining in the account after taxes and creditors’ claims have been satisfied shall be returned to the certificate holder.”

(d) Section 1101, A., 1., is not incorporated by reference and is rescinded and reenacted to read: “1. A certificate of Foreign Investment is a certificate issued to an alien who has met all the standards and conditions enumerated in this Part as proof of the holder’s participation as an alien investor in an approved investment in the Commonwealth. The holder shall have the right to lawfully engage in business in the Commonwealth as long as the Alien Investor complies with the terms upon which the certificate was issued; Provided, however, that the Alien Investor shall provide a security deposit in the sum of \$100,000 on deposit in a banking or trust institution approved by the Secretary of the Department of Finance. Exclusive authorized signature authority for the security deposit shall be the Secretary of the Department of Commerce. The security deposit may be withdrawn only upon dissolution of the business. Any funds remaining on deposit, after all applicable taxes are fully satisfied, shall be used to pay for any and all unpaid accounts with creditors in the Commonwealth. Any funds remaining in the account after taxes and creditors’ claims have been satisfied shall be returned to the certificate holder.”

The Department of Commerce never formally repealed or rescinded the Foreign Investments Regulations.

PL 10-44 § 7(a) cites “Volume 17, Number 1, beginning at page 5” in error. The Foreign Investments Regulations were adopted at volume 17, number 1, pages 12736-12751.

PL 10-44 did not incorporate by reference and enact as statutory law the January 1996 amendments to the Foreign Investments Regulations proposed on December 15, 1995 at 17 Com. Reg. 13781 and adopted on January 15, 1996 at 18 Com. Reg. 13295. These amendments are included in this subchapter as appropriate. The fact that they are not enacted as statutory law is noted in the comment to the affected sections.

Section 702 of the Consolidated Natural Resources Act of 2008 (PL 110-229, codified at 48 U.S.C. § 1806) removed the CNMI’s authority to create and manage its own immigration laws. On March 22, 2010, the Governor signed PL 17-1, removing all references to immigration and deportation functions from the Commonwealth Code. These regulations have not been amended, but portions of the regulations pertaining to immigration are superseded by 48 U.S.C. § 1806.

Part 001 - General Provisions

§ 20-30.2-001 Authority

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This subchapter is promulgated pursuant to 1 CMC § 2454 which authorizes the Secretary of Commerce to promulgate regulations regarding those matters over which the Department of Commerce has jurisdiction. This subchapter is promulgated pursuant to 1 CMC § 2453 (a) thru (f), and 2454, 4 CMC § 1503 and 3 CMC § 4331(e) and (j).

Modified, 1 CMC § 3806(d).

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994).

Commission Comment: Foreign Investments Reg. § 101, codified in this section, is reprinted in the commission comment to 4 CMC § 5901; see the general comment to this subchapter. This section refers to former 4 CMC § 1503, repealed by PL 9-22 (effective retroactively January 1, 1995).

§ 20-30.2-005 Definitions

For the purposes of this subchapter, the following definitions shall apply:

(a) “Alien” means a person who is not a citizen or national or permanent resident (green card holder) of the United States.

(b) “Alien Investor” is an alien who has expressed a willingness to invest, has invested in or is in the process of investing in an enterprise in the Commonwealth of the Northern Mariana Islands (the “Commonwealth” or “CNMI”). An alien investor shall not be an excludable alien under section 4322 of the Commonwealth Entry and Deportation Act of 1983 [3 CMC § 4322], as amended [3 CMC §§ 4301, et seq.]. An alien investor does not include entities such as corporations, partnerships or other entities existing solely by virtue of the law.

(c) “Approved investment” is an investment approved by the Foreign Investment Review Committee.

(d) “Approved letter” means a letter issuable by the Secretary certifying the acceptance of an approved investment subject to the minimum investment criteria and standards set forth in § 20-30.2-201 for a regular term business certificate, § 20-30.2-205 for a long term business certificate and § 20-30.2-210 for a foreign investor certificate.

(e) “Commerce certificate” means a certificate issued by the Secretary to an applicant whose application has been approved by the Foreign Investment Review Committee.

(f) “Capital” means cash, equipment, inventory, other tangible property and cash equivalents, such as certificates of deposits, treasury bonds, or other instruments that can be readily converted into cash used or committed to be use in an enterprise in the form of equity or ownership interest.

(g) “Domestic corporation” means a corporation authorized by law to issue stock, organized under the laws of the Commonwealth of the Northern Mariana Islands.

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(h) “Enterprise” means a commercial or business activity carried on for profit in the Commonwealth. This enterprise is limited to one corporation, branch, office, subsidiary or facility of a foreign corporation, a partnership, or association which is an approved investment.

(1) “New enterprise” means an enterprise existing or prospective which has been established by an alien investor for the purpose of doing business within the Commonwealth. This may include creation of a new business; purchase of an existing business which would undergo restructuring or reorganization resulting in a new commercial enterprise.

(2) “Existing enterprise” means a present or existing enterprise that is engaged in business in the Commonwealth and in which the alien investor previously had no ownership interest. Investments in existing businesses must result in increase in the net worth of the company and expansion of existing business.

(i) “Foreign corporation” means a corporation formed under the laws of a jurisdiction other than the Commonwealth of the Northern Mariana Islands.

(j) “Foreign investment” means a direct investment or investments by an alien investor or foreign corporation that is incorporated outside the United States in a business entity, existing or proposed in the Commonwealth.

(k) “Foreign national” means an alien.

(l) “Immediate family” means a legally recognized spouse, and a child under the age of twenty-one years, whether natural or adopted before the age of eighteen years, and a stepchild if the marriage that created the stepchild relationship took place before the child’s eighteenth birthday, and, in the case of a citizen, the parents, whether natural or adoptive of the citizen, provided that no alien shall derive immediate relative status from a child who is under the age of twenty-one years.

(m) “Public organization” means a Commonwealth public corporation or agency of the Commonwealth government.

(n) “Secretary” means the Secretary of the Department of Commerce.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Amdts Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Amdts Proposed 31 Com. Reg. 29224 (Feb. 25, 2009); Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992); Adopted 5 Com. Reg. 1782 (Jan. 31, 1983); Proposed 4 Com. Reg. 1679 (Nov. 22, 1982).

Commission Comment: Foreign Investments Reg. § 201 is codified at 4 CMC § 5901; see the general comment to this subchapter. In subsection (d), the commission changed “criterias” to “criteria” to correct a manifest error. The 2009 amendments applied to subsections (a) and (l). The Commission changed the semicolons at the ends of subsections (a) and (l) to periods, and struck the numbers “18” and “21” from subsection (l) pursuant to 1 CMC § 3806(e) and (g).

§ 20-30.2-010

Purpose

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To provide for standards and criteria for the issuance of commerce certificates to aliens who invest in business entities in the Commonwealth; to transfer the processing, approval, issuance and renewal of regular term business entry permits from the Department of Labor and Immigration to the Department of Commerce; to transfer the processing, approval, issuance and renewal of long term business entry permits from the Department of Labor and Immigration to the Department of Commerce; these transfers are accomplished through the Secretary of Labor and Immigration's repeal and the Secretary of Commerce's adoption of applicable provisions of the Immigration's rules and regulations; to amend the foreign investor certificate program; to establish a Foreign Investment Review Committee and for other purposes.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992).

Commission Comment: Foreign Investments Reg. § 301, codified in this section, is reprinted in the commission comment to 4 CMC § 5901; see the general comment to this subchapter. The commission corrected the plural form of "criteria."

Part 100 - Foreign Investment

§ 20-30.2-101 Foreign Investment Policy

The Secretary makes the following declarations:

- (a) It is declared that all investments in the Commonwealth by foreign nationals shall fall under the classification of foreign investment;
- (b) It is declared that all investments by foreign nationals in existing enterprises shall fall under the foreign investment classification;
- (c) It is declared that all investments by foreign nationals or foreign corporations, proposed or actual, in new enterprises which are not engaged in business, but are proposed to engage shall fall under the classification of foreign investment;
- (d) It is declared that if an investment in a proposed or existing enterprise cannot be categorized as falling under foreign investment, the Secretary must make findings and determine whether such an investment should be classified as a foreign investment or an investment by United States citizens; and
- (e) This subchapter should provide foreign investors a sense of direction and guideline to proceed onto the next phases of investor classifications from short term business entry permit holder to regular term business certificate or two year term business certificate and ideally to the foreign investor certificate classification. Holders of a one year term business entry permits are encouraged to apply for the two year business certificate.

Modified, 1 CMC § 3806(d), (g).

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History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992).

Commission Comment: Foreign Investments Reg. § 401 is codified at 4 CMC § 5902; see the general comment to this subchapter. In subsection (c), the commission changed the final period to a semicolon, and in subsection (d), the commission changed the final comma to a semicolon to ensure consistent punctuation in the section.

§ 20-30.2-105 Transfer of Authority

The responsibilities for the processing, approval, issuance, and renewal of regular term business certificates and authorizing entry permits under § 5-40.3-240(a) of the Immigration Rules and Regulations, long term business certificates and authorizing entry permits under § 5-40.3-240(n) of the Immigration Rules and Regulations, foreign investor certificates and authorizing entry permits under § 5-40.3-240(g) of the Immigration Rules and Regulations, and retiree investor certificates and authorizing entry permits under § 5-40.3-240(o) and the authority for extensions and renewals of these authorizations for entry permits and the annual registration of these classes of aliens have been transferred to the Department of Commerce. Issuance of entry permits remains the responsibility of the Director of Immigration.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Amdts Proposed 31 Com. Reg. 29224 (Feb. 25, 2009); Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992).

Commission Comment: Foreign Investments Reg. § 501 is codified at 4 CMC § 5903; see the general comment to this subchapter. The commission moved the final period inside the closing quotation mark to correct a manifest error. The Immigration Rules and Regulations referred to in this section were implemented by the Office of the Attorney General, Division of Immigration pursuant to Executive Order 03-01 (effective May 9, 2003). They were repealed by 32 Com. Reg. 30094 (Apr. 27, 2010). See the general commission comment to NMIAC, title 5, subchapter 40.1.

§ 20-30.2-110 Certification

The Secretary or his or her designee shall provide to the Director of Immigration an authorization for entry, certifying that an alien has met the requirements for a commerce certificate, before an entry permit is processed by the Division of Immigration. The certification by the Secretary shall be consistent with the recommendation by the Foreign Investment Review Committee. No entry permit shall be issued by the Director of Immigration without an authorization for entry from the Secretary.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Amdts Proposed 31 Com. Reg. 29224 (Feb. 25, 2009); Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992).

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Commission Comment: Foreign Investments Reg. § 601 is codified at 4 CMC § 5904; see the general comment to this subchapter. Executive Order 03-01 (effective May 9, 2003), the “Department of Labor and Immigration Reorganization Plan of 2003,” returned the immigration functions of the executive branch to the Office of the Attorney General. See the general commission comment to NMIAC, title 5, subchapter 40.1.

§ 20-30.2-115 Foreign Investment Review Committee

There is hereby created a Foreign Investment Review Committee (hereafter “review committee”) composed of the Secretary or his or her designee and the Attorney General or his or her designee and any other person(s) whom the Secretary deems appropriate. The Attorney General’s presence on the review committee is limited to ensuring that the activities of the review committee are in compliance with the laws of the Commonwealth.

(a) Duties. The review committee shall review all applications for or renewals of regular term business certificates, long term business certificates, and foreign investor certificates. The standard of review are set forth in § 20-30.2-201 for a regular term business certificate, § 20-30.2-205 for a long term business certificate, and § 20-30.2-210 for a foreign investor certificate. The review committee through the Secretary shall regularly consult with the Governor regarding the Commonwealth’s policies with respect to foreign investments.

(b) Procedures. The review committee shall establish in writing standard operating procedures for the review of all applications for a commerce certificate and other applications assigned to it by the Secretary. The review committee shall communicate its findings and decision in writing regarding each application for a commerce certificate to the Secretary no later than 30 calendar days from the date the application form is filed with the Department of Commerce. The Secretary shall notify the applicant of the decision of the review committee within 5 working days of receipt of the decision of the review committee. The Secretary shall issue an approved letter to an applicant whose application has been approved. An application which has been received the Department of Commerce and has not received an approval or denial on the 91st day after its receipt shall be deemed approved with conditions stipulated for completeness.

(c) Appeal. The applicant whose permit has been disapproved shall have up to seven working days in which to appeal the decision of the review committee. The request for appeal shall be made in writing and presented to the Secretary. The Secretary shall comply with the requirements of the Administrative Procedure Act [1 CMC §§ 9101, et seq.] regarding the appeals process. Appeals received after the seven days shall be denied.

(d) Authority to Request for Documents, Interviews, and Public Hearings. The review committee shall have the authority to request the applicant to provide documents to substantiate representations made in the application for a commerce certificate through correspondences or interviews. The Review committee may request and hold public hearings from time to time on the type of investments needed in the Commonwealth.

Modified, 1 CMC § 3806(e), (f), (g).

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History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992).

Commission Comment: Foreign Investments Reg. § 701 is codified at 4 CMC §§ 5911-5915; see the general comment to this subchapter. In subsection (c), the commission changed “Procedures” to “Procedure” to correct a manifest error.

§ 20-30.2-120 Classification

The review committee may classify an alien who owns an interest in a foreign corporation that incorporates in the Commonwealth as an alien investor if the alien satisfactorily establishes his or her ownership interest in the foreign corporation and meets the requisite criteria and standards of the commerce certificate applied for. The review committee may review, upon request and submission of sufficient documentation, the status of an alien not owning any interest in a Commonwealth corporation, and who is requesting issuance of either a 90 day business certificate and visa or a 2 year term business certificate and visa. The review committee may qualify such alien for any of the two business entry certificates. This exclusion shall only be limited to applicants from existing enterprises and corporations whose investments have been approved by the review committee and in which applicant will engage in a managerial or policymaking capacity and consistent with CNMI laws.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992).

Commission Comment: Foreign Investments Reg. § 801 is codified at 4 CMC § 5916; see the general comment to this subchapter. The commission changed “criterias” to “criteria” to correct a manifest error.

Part 200 - Business Certificates

§ 20-30.2-201 Regular Term Business Certificate

(a) Conditions.

(1) A holder of a regular term business certificate entitles the alien investor to lawfully engage in business in the Commonwealth for not more than ninety days within a 12 month period.

(2) The application fee for a regular term business certificate shall be paid to the CNMI Treasurer prior to filing an application for a regular term business certificate with the Secretary.

(3) All applications for a regular term business certificate must be made only after the applicant has lawfully entered the Commonwealth. Only a holder of a short term business entry permit is allowed to apply for a regular term business entry certificate.

(4) Applicants for a regular term business certificate must file the application with the Secretary at least 10 days prior to the expiration of the applicant’s immigration permit. Applications received with less than 10 days from expiration of applicant’s short term business entry permit shall be denied.

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(b) Standard of Review. The standard of review of the regular term business certificate shall be determined by the Secretary. The criteria, requirements, and basis of approval shall be contained in standard operating procedures held at the Office of the Secretary.

(c) Application Process. Applicants for a regular term business certificate shall file with the Department of Commerce a completed application form approved by the Secretary, to include a police clearance valid for the previous ninety days from the date of application for the regular term business certificate. The procedures for the review of regular term business certificates are set forth in § 20-30.2-115.

Modified, 1 CMC § 3806(c), (e), (g).

History: Amdts Adopted 18 Com. Reg. 14314 (Aug. 15, 1996); Amdts Proposed 18 Com. Reg. 14201 (July 15, 1996); Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994).

Commission Comment: Foreign Investments Reg. § 901 is codified at 4 CMC §§ 5931-5933; see the general comment to this subchapter. In subsection (b), the commission changed “criterias” to “criteria” to correct a manifest error.

§ 20-30.2-205 Long Term Business Certificate

(a) Conditions.

(1) [Rescinded by PL 10-44].

(2) The application fee shall be paid to the CNMI Treasurer prior to filing an application for a long term business certificate with the Secretary.

(3) Holders of a short term business entry permit or a regular term business certificate are eligible to apply for a long term business certificate.

(4) Applicants for this certificate must file an application with the Secretary ten days prior to the expiration of the applicant’s entry permit or visa. Applications received with less than 10 days from expiration of applicant’s commerce certificate and entry visa shall be denied.

(b) Standard of Review.

(1) Approved Investment - General Standard. An approved investment is one which the review committee finds that the alien has invested or is actively in the process of investing a significant amount of capital in a bona fide enterprise which benefits the Commonwealth. A certificate holder shall not deviate from an approved investment.

(2) The review committee shall determine the criteria for approval of the application for a long term business certificate, which may include, but are not limited to, the following:

(i) The representations made by the alien in his or her application and representations made through interviews by members of the review committee;

(ii) The length of time for which the long term business certificate may be granted before it shall be subject to reconsideration for renewal;

(iii) The types and scope of business activities in which the alien may engage;

(iv) The creation and guarantees of employment preferences for Commonwealth residents; and,

(v) Such other conditions as the review committee deems appropriate.

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(3) Evaluation Factors - New Enterprises. In determining whether a proposed investment in a new enterprise is an approved investment, the review committee shall consider the following:

- (i) [Rescinded by PL 10-44.]
- (ii) The type of enterprise proposed by the alien investor;
- (iii) The reputation and business experience of the alien investor;
- (iv) The number and type of employment opportunities to be created for Commonwealth residents by the enterprise;
- (v) The number of alien workers to be employed by the enterprise;
- (vi) The demand for the type of enterprise and existing competition;
- (vii) The island or islands on which the enterprise will be located;
- (viii) The extent to which the enterprise will reduce imports and increase exports;
- (ix) The extent of which the enterprise will increase the availability of goods and services at competitive prices to Commonwealth residents;
- (x) The extent to which the enterprise will support or enhance existing industries in the Commonwealth;
- (xi) The extent to which the enterprise will develop the resources of the Commonwealth;
- (xii) The extent of any equity participation in the enterprise by Commonwealth residents;
- (xiii) Whether the enterprise will be a substantial, on going business, as distinct from a marginal enterprise established solely for the purpose of earning a living for the alien and his family; and
- (xiv) The extent to which the enterprise will contribute to the overall economic well-being of the Commonwealth without adversely affecting existing social, cultural, and ethnic conditions in the Commonwealth.

(4) Evaluation Factors - Existing Enterprises. In determining whether a proposed investment in a new* enterprise is an approved investment, the review committee shall consider the following:

- (i) [Rescinded by PL 10-44.]
- (ii) The type of business engaged in by the existing enterprise;
- (iii) The size and financial integrity of the existing enterprise;
- (iv) The ownership of the existing enterprise; and
- (v) The nature and extent of the alien investor's participation in the management of the existing enterprise;
- (vi) The number of resident employees shall not be less than 20% of total employees of the existing enterprise.

*So in original; see the comment to this section.

(c) Application Process.

(1) The applicant shall file an application for a long term business certificate with the Secretary. The application will not be accepted without the necessary supporting documents and shall become the property of the Secretary once submitted. All documents shall be filed* out under penalty of perjury.

(2) The following documents shall be attached to a completed application form:

- (i) Certified copy of birth certificate;
- (ii) Any document deemed necessary by the Secretary to substantiate the applicants immigration entry classification;
- (iii) One and one-quarter inch frontal photograph in either black and white or color; and,

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- (iv) Evidence that capital has been invested may include bank statements showing amounts deposited in CNMI business accounts, invoices, receipts or contracts for assets purchased, stock purchase transaction records, loan or other borrowing agreements, land leases, financial statements, business gross tax receipts, and any other agreements supporting application;
 - (v) Evidence that applicant has invested or is actively in the process of investing amount required. These may include evidence of assets which have been purchased for use in the enterprise, evidence of property transferred from abroad for use in the enterprise, evidence of monies transferred or committed to be transferred to the new or existing enterprise in exchange for shares of stock, any loan or mortgage, promissory note, security agreement or other evidence of borrowing which is secured by assets of applicant;
 - (vi) Business plan/proposal incorporating evaluation factors for new enterprises;
 - (vii) Articles on incorporation, by-laws, partnership agreements, joint venture agreements, corporate minutes and annual reports, affidavits, declarations or certifications of paid-in capital;
 - (viii) Current business license(s);
 - (ix) Foreign business registration records, recent tax returns of any kind, evidence of other sources of capital;
 - (x) Listing of all resident and nonresident employees;
 - (xi) Listing of all holders of business certificates for the business establishment;
 - (xii) Listing of all corporations held by applicants;
 - (xiii) Any other documents required by the Secretary;
 - (xiv) A police clearance valid for the previous two years from the date of application for the long term business certificate.
- (3) Applicants for a long term business certificate shall file with the Department of Commerce a completed application form approved by the Secretary. The procedures for the review of an application for a long term business certificates are set forth in § 20-30.2-115.

*So in original, probably should be "filled."

- (d) Renewal of a long term business certificate (two year term and one year term business permits/certificate).
- (1) The holder of a long term business certificate has no absolute right to renewal of the certificate. An application for renewal will be denied when the review committee finds:
 - (i) That the application has remained incomplete for at least 30 days since submission; or
 - (ii) Applicant obtained business entry permit illegally, or that applicant should not have been granted a permit in the initial application; or
 - (iii) Applicant violated any provision of this subchapter; or
 - (iv) Applicant has not maintained an approved investment in continuing compliance with standards of issuance of business certificates; or
 - (v) Applicant committed fraud or misrepresentation in any material assertion in the application for the initial or renewal of application; or
 - (vi) Applicant has been subjected to adjudication of bankruptcy regarding the approved investment.
 - (2) An alien may apply for a renewal by submitting an application for a renewal with the Secretary at least 90 days prior to the expiration of the alien investor's previously issued long term business entry permit. Applications received after the expiration of the entry visa and commerce certificate shall be denied.

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(3) The applicant shall be afforded the 90 day business certificate opportunity to take steps necessary to liquidate, transfer, or dispose of assets of an approved investment following termination or non-renewal of application.

(4) The long term business certificate may be renewed if the review committee finds that the alien's investment continues to be in compliance with the standards set forth in this subchapter. Holders of long term business entry permits with investments of less than the required amount must meet requirement within two years after the final adoption of this subchapter.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 18 Com. Reg. 14314 (Aug. 15, 1996); Amdts Proposed 18 Com. Reg. 14201 (July 15, 1996); Amdts Adopted 18 Com. Reg. 13925 (Jan. 15, 1996); Amdts Proposed 17 Com. Reg. 13871 (Dec. 15, 1995); Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992).

Commission Comment: Foreign Investment Reg. § 1001 is codified, as amended by PL 10-44 § 7, PL 12-11 (effective Aug. 3, 2000), and PL 13-51 (effective Apr. 21, 2003), at 4 CMC §§ 5941-5944; see the general comment to this subchapter. PL 10-44 § 7(b) and (c) rescinded and reenacted Foreign Investment Reg. §§ 1001A.1., 1001B.3.a., and 1001B.4.a. as follows:

(b) Section 1001, B., 3., a., entitled Evaluation Factors - New Enterprises, and Section 1001, B., 3., a., entitled Evaluation Factors - Existing Enterprises, are not incorporated by reference and are rescinded and reenacted to read:

“3. a. The amount of capital invested or to be invested by the Alien Investor, shall not be less than \$150,000.”

“4. a. The amount of capital invested or to be invested by the Alien Investor, shall not be less than \$150,000 in a public organization or not less than \$250,000, in a private investment.”

(c) Section 1001, A., 1., is not incorporated by reference and is rescinded and reenacted to read:

“1. A holder of a long term business certificate entitles the Alien Investor to lawfully engage in business in the Commonwealth for a period of two (2) years; Provided, however, that the Alien Investor shall provide a security deposit in the sum of \$100,000 on deposit in a banking or trust institution approved by the Secretary of the Department of Finance. Exclusive authorized signature authority for the security deposit shall be the Secretary of the Department of Commerce. The security deposit may be withdrawn only upon dissolution of the business. Any funds remaining on deposit, after all applicable taxes are fully satisfied, shall be used to pay for any and all unpaid accounts with creditors in the Commonwealth. Any funds remaining in the account after taxes and creditors' claims have been satisfied shall be returned to the certificate holder.”

Sections 1001A.1., 1001B.3.a., and 1001B.4.a. are redesignated as subsections (a)(1), (b)(3)(i), and (b)(4)(i) respectively.

PL 12-11 (effective Aug. 3, 2000) and PL 13-51 (effective Apr. 21, 2003) further amended former section 1001(a), codified at 4 CMC § 5941.

Subsection (b) originally contained two subsections designated (b)(3). The January 1996 amendments redesignated “Evaluation Factors - Existing Enterprises” as subsection (b)(4). See 17 Com. Reg. at 13873 (Dec. 15, 1995). The original paragraphs of subsection (d) were not designated. The commission designated subsections (d)(1) through (d)(4).

The January 1996 amendments amended subsections (b)(3)(i) and (b)(4)(i). PL 10-44 did not enact the January 1996 amendments as statutory law and subsections (b)(3)(i) and (b)(4)(i) were rescinded and reenacted by PL 10-44 § 7(b).

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The starred language in subsection (b)(4) was erroneously changed by the January 1996 amendments and probably should read “an existing enterprise.” Compare 17 Com. Reg. at 12741 (Jan. 15, 1995) and 17 Com. Reg. at 13873 (Dec. 15, 1995).

The August 1996 amendments added new subsection (c)(2)(xiv).

In subsection (b)(2), the commission changed “criterias” to “criteria.” In subsection (b)(3)(xiv), the commission changed the final semicolon to a period. In subsections (c)(1)(i) through (c)(1)(xiv), the commission changed the final punctuation to a semi-colon as necessary to maintain consistency. In subsection (c)(2)(viii), the commission inserted the final semicolon.

§ 20-30.2-210 Foreign Investment Certificate

(a) Conditions.

(1) [Rescinded by PL 10-44.]

(2) The application fee for a foreign investor certificate shall be paid to the CNMI Treasurer prior to filing an application for this certificate with the Secretary.

(3) All applications for a foreign investor certificate must be made only after the applicant has lawfully entered the Commonwealth. Holders of a short term business entry permit, a regular term business certificate, or a long term business certificate shall be eligible to apply for a foreign investor certificate.

(b) Standard of Review. An approved investment for the purposes of this section means an investment approved by the Secretary, which approval shall be subject to the following standards:

(1) Minimum Amount of Investment. The amount of the “approved investment” shall be \$100,000 per person in an aggregate “Approved Investment” in excess of \$2,000,000; or, \$250,000 by an individual in a single “approved investment.”

(2) Approved Investment Standards. In reviewing the acceptability of an approved investment for purposes of determining issuance or denial of a certificate of foreign investment, the Secretary shall consider:

(i) The relative need for or desirability of the type of enterprise described by the applicant;

(ii) Whether or not the proposed enterprise is in compliance with local and/or federal laws;

(iii) The number and description of employment positions created by the enterprise or which will be created for qualified Commonwealth residents and the extent to which non-residents personnel are or will be utilized at the outset of the applicant’s enterprise, the quality and projected performance of a resident employee training program, if any;

(iv) The effect which the enterprise will have upon the ecology of the Commonwealth including its pollutant or non-pollutant status, its potential impact on the fresh water table, and the likelihood of creating waste products that would be detrimental to the environment;

(v) The personal integrity and business reputation of the alien investor and any associate investors involved in the enterprise;

(vi) To the extent that such factor can be determined, the likelihood that the enterprise will continue its operation in the Commonwealth for a substantial period of time;

(vii) The extent to which contractors, subcontractors, labor and materials and other supplies available locally have been or will be utilized in the establishment, construction and operation of the enterprise;

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(viii) The extent to which the enterprise will impact upon power and water resources in the Commonwealth, whether or not the enterprise includes water catchments, separate power plant, separate water wells, other independent water or power resource; and if not, the amounts of water and power necessary for establishment, construction, and operation of the enterprise;

(ix) The likelihood that the enterprise has not been organized in good faith or with a permanent character or that the issuance of a certificate of foreign investment will be misused;

(x) Nothing in these standards shall preclude the foreign investor from investing in an ongoing enterprise.

(c) Application Process.

(1) Issuance of Certificates of Foreign Investment.

(i) The alien investor shall submit an application for an approved investment subject to the standards and criteria outlined in this section. The applicant shall provide all information and supporting documents as deemed necessary by the Secretary.

(ii) The review committee shall review the application for an approved investment and, in the event that the proposal complies with the standards and criteria outlined in this section, it shall communicate its decision to the Secretary in writing. The Secretary shall inform the applicant of the decision of the review committee. If the application is approved, the Secretary shall issue an approval letter to the applicant. The approval letter shall not be evidence of a certificate of foreign investment as referenced in subsection (a)(1) [rescinded by PL 10-44]. The approval letter shall be issued or denied within a time period not to exceed forty-five days from the date of application.

(iii) After receiving an approval letter regarding a proposed approved investment, the alien investor shall secure the necessary financial backing to proceed with the approved investment.

(iv) After obtaining necessary financial backing to finance the approved investment, the alien investor shall supply documentary proof of such backing to the Secretary for his review and approval. This documentation shall be sufficient to convince the Secretary that the alien investor has sufficient backing to initiate the approved investment within one hundred and eighty days following the issuance of a certificate of foreign investment. This documentation may include cash deposits, letters of credit, or any other evidence of financial ability acceptable to the Secretary.

(v) Upon receipt and approval of documentation proving financial ability of the alien investor, the Secretary shall issue a certificate of foreign investment. Issuance or denial of the certificate of foreign investment shall be effected by the Secretary within a time period not to exceed thirty days after the receipt of the financial backing documentation.

(vi) In the event the Secretary denies issuance of either an approval letter or a certificate of foreign investment to any applicant, the Secretary shall deliver the reasons for denial in writing to the applicant within the time periods specified in subsections (ii) and (v).

(2) Certification. After the issuance of an approval letter to the applicant, the Secretary shall certify to the Director of the Immigration Service that the applicant is eligible for a foreign investor visa.

(d) Duration of Certificate of Foreign Investment. The duration of the certificate of foreign investment shall be perpetual; provided that the approved investment continues to comply with the standards of issuance.

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- (e) Annual Report. The holder of a certificate of foreign investment must submit to the Secretary an annual report of investment activities in the Commonwealth on or before January 1 of each year. The report shall contain the information necessary for the Secretary to determine whether or not the certificate holder is under continuing compliance with the standards of issuance. This report shall be accompanied with an annual financial audit report performed by an independent certified public accountant.
- (f) Fees. An application for a certificate of foreign investment shall be accompanied by a non-refundable fee of \$10,000.00 for the processing of the application.
- (g) Revocation of Certificate of Foreign Investment.
- (1) The Secretary, after permitting the certificate holder (or his authorized representative) to appear before him, in person, and finding, upon a preponderance of the evidence reviewed by him, that the alien investor has:
- (i) Not maintained an approved investment in continuing compliance with the standards of issuance of a certificate of foreign investment; and/or
 - (ii) Committed fraud or misrepresentation in any material assertion in the application for the approval letter, the certificate of foreign investment, or the annual report required pursuant to subsection (e) herein; and/or
 - (iii) Been subjected to an adjudication of bankruptcy regarding the alien investment; and/or
 - (iv) Failed to comply with any conditions or obligations stated in the certificate of foreign investment, after having been afforded by the Secretary reasonable period within which to correct such failure; provided, however, that should the alien investment fail for reasons beyond the control of the alien investor, the Secretary shall provide reasonable time to the alien investor within which to refinance the approved investment, or secure participation in an alternative approved investment;
 - (v) Been subjected to a finding by the Attorney General that the corporate parent for the enterprise, if any, has been dissolved; and/or
 - (vi) Violated any provision of this subchapter.
- (2) The Secretary shall either take steps to secure correction of any insufficiency or non-compliance, or revoke the certificate of foreign investment, the alien investor shall be afforded a six-month grace period following termination or revocation of his certificate, in order to take steps necessary to liquidate, transfer or otherwise dispose of assets connected with the alien investor's approved investment activity. The Secretary shall inform the Secretary of Labor and Immigration in writing of his decision to revoke and/or deny renewal of the certificate of foreign investment, and compute the six month's grace period date commencing from the date of denial and/or revocation. The alien investor's foreign investment visa (and any visas held by members of his immediate family) shall be valid up to and including the final day of the six-month grace period following termination of the certificate of foreign investment.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992); Adopted 5 Com. Reg. 1782 (Jan. 31, 1983); Proposed 4 Com. Reg. 1679 (Nov. 22, 1982). Commission Comment: Foreign Investment Reg. § 1101 is codified, as amended by PL 10-44 § 7, and PL 12-11 (effective Aug. 3, 2000), at 4 CMC §§ 5951-5957; see the general comment to this subchapter.

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PL 10-44 § 7(d) rescinded and reenacted Foreign Investment Reg. § 1101A.1., as follows:

(d) Section 1101, A., 1., is not incorporated by reference and is rescinded and reenacted to read:

“1. A certificate of Foreign Investment is a certificate issued to an alien who has met all the standards and conditions enumerated in this Part as proof of the holder’s participation as an alien investor in an approved investment in the Commonwealth. The holder shall have the right to lawfully engage in business in the Commonwealth as long as the Alien Investor complies with the terms upon which the certificate was issued; Provided, however, that the Alien Investor shall provide a security deposit in the sum of \$100,000 on deposit in a banking or trust institution approved by the Secretary of the Department of Finance. Exclusive authorized signature authority for the security deposit shall be the Secretary of the Department of Commerce. The security deposit may be withdrawn only upon dissolution of the business. Any funds remaining on deposit, after all applicable taxes are fully satisfied, shall be used to pay for any and all unpaid accounts with creditors in the Commonwealth. Any funds remaining in the account after taxes and creditors’ claims have been satisfied shall be returned to the certificate holder.”

Section 1101A.1. is redesignated as subsection (a)(1) of this section. PL 12-11 (effective Aug. 3, 2000) further amended former subsection 1101(a)(1), codified at 4 CMC § 5951.

The last paragraph of subsection (g) was not designated. The commission designated it subsection (g)(2).

The cross-references in subsections (c)(1)(ii), (c)(1)(vi) and (g)(1)(ii) were not correct. See 17 Com. Reg. at 12744-45 (Jan. 15, 1995) (incorrectly citing subsections (1)(a), (2)(b) and (e), and section 4, respectively). The commission corrected the cross-references to applicable sections.

In subsection (b)(1), the commission moved the final period inside the closing quotation mark. In subsections (b)(2)(iv) and (g)(1)(iv), the commission changed the final period to a semicolon.

Part 300 - Other Foreign Investment and Fees

§ 20-30.2-301 Other Foreign Investment

Nothing in this subchapter shall preclude foreign investment in the Commonwealth; however, any other manner of foreign investment shall not entitle the alien investor to a commerce certificate.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994); Certified 14 Com. Reg. 9179 (Apr. 15, 1992); Adopted 5 Com. Reg. 1782 (Jan. 31, 1983); Proposed 4 Com. Reg. 1679 (Nov. 22, 1982).

Commission Comment: Foreign Investments Reg. § 1201 is codified at 4 CMC § 5971; see the general comment to this subchapter.

§ 20-30.2-305 Fee Schedule

All fees collected under this section shall be deposited with the CNMI Treasury and are non-refundable.

(a) Regular-term business certificate \$200

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(b)	Long-term business certificate	\$1,000
(c)	Foreign investment certificate	\$10,000
(d)	Immediate relative certificate	\$2,500
(e)	Annual registration	\$100
(f)	Penalty for violation of this subchapter	\$100 per day the violation is not resolved and \$100 per violation

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Amdts Proposed 31 Com. Reg. 29224 (Feb. 25, 2009); Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994) (effective for 120 days from Aug. 24, 1994).

Commission Comment: Foreign Investments Reg. § 1301 is codified at 4 CMC § 5972; see the general comment to this subchapter.

§ 20-30.2-310 Annual Registration

Each holder of a long term business entry permit, a foreign investor entry permit, or a permit issued to an immediate relative of a long term business permit holder or a foreign investor permit holder must register annually with the Department, provide a current address and contact information, and reaffirm the accuracy of the representations made to the Department upon which the entry permit was authorized by the Department.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

§ 20-30.2-315 Extensions and Renewals

Applications for extensions and renewals of long term business entry permits, foreign investor permits, and immediate relative permits shall be made to the Secretary and shall be reviewed under the same standards as applications for initial commerce certificates.

History: Adopted 31 Com. Reg. 29371 (Apr. 27, 2009); Proposed 31 Com. Reg. 29224 (Feb. 25, 2009).

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Appendix A Forms

FOREIGN INVESTMENT REVIEW COMMITTEE

DATE SUBMITTED: _____

* THE FOLLOWING DOCUMENTS WERE SUBMITTED TO THE FOREIGN INVESTMENT REVIEW COMMITTEE IN ORDER TO CONSIDER APPLICATION.

CHECK LIST

_____ Documents to support financial backing

_____ Description of proposed project or line of business

_____ Evidence of character and business reputation of all involved investors

_____ Immigration status of involved investors and family members Principal:

_____ Copy of Certificate of Incorporation

_____ Fees paid

Receipt no. _____

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994).

Commission Comment: This form was published following section 1301 of the Foreign Investment Regulations at 17 Com. Reg. 12729, 12747 (Jan. 15, 1995) and is reprinted in the comments to 4 CMC § 5913.

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FOREIGN INVESTMENT REVIEW COMMITTEE

* Application for Foreign Investment Certificate for _____ has been:

Approved

Denied

Review Committee Date

Review Committee Date

Review Committee Date

Review Committee Date

Review Committee Date

Review Committee Date

COMMENTS:

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994).

Commission Comment: This form was published following section 1301 of the Foreign Investment Regulations at 17 Com. Reg. 12729, 12748 (Jan. 15, 1995) and is reprinted in the comments to 4 CMC § 5913.

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LONG TERM BUSINESS ENTRY CERTIFICATE (2 YRS)

*The following documents are to be submitted before the review committee in order to consider application.

CHECK LIST

- ___ COMPLETED LTBEAC APPLICATION
- ___ PHOTO
- ___ MARRIAGE CERTIFICATE
- ___ CURRENT POLICE CLEARANCE
- ___ HEALTH CERTIFICATE
- ___ COPY OF PASSPORT
- ___ BIRTH CERTIFICATE
- ___ BGRT QUARTERLY
- ___ WITHHOLDING EMPLOYEE TAX
- ___ BUSINESS LICENSE OF EXISTING BUSINESS
- ___ BY-LAWS
- ___ ARTICLES OF INCORPORATION
- ___ CORPORATE CHARTER
- ___ AFFIDAVIT/CERTIFICATION/DECLARATION OF PAID IN CAPITAL
- ___ BUSINESS FINANCIAL STATEMENT
- ___ LEASE AGREEMENT PRIVATE/PUBLIC
- ___ SKETCH OF LOCATION
- ___ LIST OF DEPENDENTS
- ___ INVENTORY OF ASSETS
- ___ FILING FEE PAID RECEIPT NO. _____

A. IS APPLICANT ON ISLAND ___ OFF ISLAND ___

B. TYPE OF PERMIT _____ NO. _____

C. ANY AMENDMENTS TO BUSINESS(LIST) _____

D. APPLICATION SUBMITTED BY INCORPORATOR ___ AGENT(NAME) _____

E. SOCIAL SECURITY NUMBER OF INCORPORATOR:
PREVIOUS # _____ NEW # _____

DOCUMENTS REVIEWED BY: _____

STATUS: ___ RECOMMENDED FOR APPROVAL
 ___ RECOMMENDED FOR DENIAL
 ___ PENDING

COMMENTS: _____

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History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994).

Commission Comment: This form was published following section 1301 of the Foreign Investment Regulations at 17 Com. Reg. 12729, 12749 (Jan. 15, 1995) and is reprinted in the comments to 4 CMC § 5943.

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FOREIGN INVESTMENT APPLICATION REQUIREMENTS

* Detailed information on required documents

A. DOCUMENTS TO SUPPORT FINANCIAL BACKING

1. Corporation authorizes Department of Commerce to do bank inquiry or verification.
2. Bank statements, financial statements, bank references submitted.
3. Does corporation have any loan commitments if so, please provide pertinent documents.

B. DESCRIPTION OF PROPOSED PROJECT OR LINE OF BUSINESS

1. Should provide a feasibility study or analysis
2. What type of work force, training program
3. Overall economic impact and environmental impact

C. EVIDENCE OF CHARACTER AND BUSINESS REPUTATION OF ALL INVOLVED INVESTORS

1. Letters of recommendation
2. Affiliations with other corporations
3. Police clearance

D. IMMIGRATION STATUS OF INVOLVED INVESTORS AND FAMILY MEMBERS

1. Number of Family members

E. COPY OF CERTIFICATION ON INCORPORATION

1. Proof or copy of Certification of Incorporation

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994).

Commission Comment: This form was published following section 1301 of the Foreign Investment Regulations at 17 Com. Reg. 12729, 12750 (Jan. 15, 1995) and is reprinted in the comments to 4 CMC § 5953.

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CRITERIA ON APPROVING 90 DAY BUSINESS ENTRY CERTIFICATES

1. The 90 day entry permit sets out the initial stage in the foreign investment process. Due diligence is therefore necessary in the review process. This is a vital stage in the guidance and regulation of foreign investment. Below is a listing of business activities by priority as set forth by the Secretary of Commerce:

- A. Hotels/Motels
- B. Manufacturing
- C. Air Transportation/Transportation Services/Shipping
- D. Construction
- E. Banking/Finance
- F. Agriculture/Fishing
- G. Professional Service
- H. Retail/Wholesale Trade
- I. Restaurants and Bars
- J. All others

2. Business activity to be engaged in must be disclosed. A proposal or a business plan must be submitted incorporating evaluation factors for “new enterprises” A thru M.

3. Amount of capital invested or to be invested. Financial statements of principals, including companies owned or affiliated with principals.

4. Investment or financing schemes. Bank references, business background/experiences and references must be submitted. Commitment letters from financiers/banks to fund the project.

5. With investments of less than \$50,000, equity participation with U.S. citizens are encouraged.

6. Number of employees expected to be hired immediately. Training programs, management incentives and other employee benefits.

7. Expected duration of stays of applicants in the CNMI to tend to business.

8. Criteria in evaluating new enterprises under the Long Term Business Entry Permits program must be incorporated at this stage and not until a business is already opened and operating.*

*So in original.

History: Adopted 17 Com. Reg. 12729 (Jan. 15, 1995); Proposed 16 Com. Reg. 12560 (Nov. 15, 1994); Emergency and Proposed 16 Com. Reg. 12332 (Sept. 15, 1994).

Commission Comment: This form was published following § 1301 of the Foreign Investment Regulations at 17 Com. Reg. 12729, 12751 (Jan. 15, 1995) and is reprinted in the comments to 4 CMC § 5932. The commission changed “criterias” to “criteria” in the title and in number 8. In number 5, the commission changed “participations” to “participation.”