

**TITLE 4: ECONOMIC RESOURCES**  
**DIVISION 5: BUSINESS REGULATION**

**§ 5901. Definitions.**

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

(a) "Alien" means any person who is not a citizen or national of the United States, or not a permanent resident of the Commonwealth of the Northern Mariana Islands pursuant to 3 CMC § 4202.

(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 3 CMC § 4322 (Commonwealth Entry and Deportation Act of 1983, 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 criterias and standards set forth in article 3 of this chapter [4 CMC § 5931 et seq.] for a regular term business certificate, article 4 of this chapter [4 CMC § 5941 et seq.] for a long term business certificate, and article 5 of this chapter [4 CMC § 5951 et seq.] for a foreign investor certificate.

(e) "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 used in an enterprise in the form of equity or ownership interest.

(f) "Commerce certificate" means a certificate issued by the secretary to an applicant whose application has been approved by the Foreign Investment Review Committee.

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

(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) "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.

(2) "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

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an existing business which would undergo restructuring or reorganization resulting in a new commercial enterprise.

(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 the spouse, parents and natural or adopted children under the age of 21.

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

(n) "Secretary" means the Secretary of the Department of Commerce.

**Source:** PL 10-44, § 7 ("Part II - Foreign Investments" regulations (Commonwealth Register, Vol. 17, No. 01, January 15, 1995) § 201, modified); subsection (a) repealed and reenacted by PL 16-5 § 3.

**Commission Comment:** PL 10-44 took effect February 7, 1997. According to PL 10-44, § 7:

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, 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 be not 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

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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."

Section 101 and 301 of "Part II - Foreign Investments" regulations (Commonwealth Register, Vol. 17, No. 01, January 15, 1995) set forth the following:

**SECTION 101. AUTHORITY.** These regulations are 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. These regulations are promulgated pursuant to 1 CMC § 2453 (a) thru (f), and § 2454, 4 CMC § 1503 and 3 CMC Div. 4 § 4331(e) and (j).

...

**SECTION 301. PURPOSE.** To provide for standards and criterias 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

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program; to establish a Foreign Investment Review Committee and for other purposes.

The order of subsections (h)(1) and (h)(2) have been switched to place them in alphabetical order.

See Commission comment to 3 CMC § 4303 for more information regarding PL 16-5, which took effect on June 5, 2008.