

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

In the Matter of)
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)
)
ZF Friedrichshafen AG,)
a corporation; and,)
)

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Acts and that a Complaint should issue stating its charges in that respect, and having determined to accept the executed Consent Agreement and to place such Consent Agreement containing the Decision and Order on the public record for a period of thirty(30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. §.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings, and issues the following Order to Hold Separate and Maintain Assets (Hold Separate Order):

1. Respondent ZF Friedrichshafen AG is a stock corporation organized, existing and doing business under and by virtue of the laws of the Federal Republic of Germany with its office and principal place of business located at Friedrichshafen, Germany.
2. Respondent TRW Automotive Holdings Corp. is a public corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 12001 Tech Center Drive, Livonia, MI 48150.
3. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and of Respondents, and this proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Hold Separate Order, the following definitions, and all other definitions used in the Consent Agreement and the Decision and Order, shall apply

- A. Decision and Order means:
 1. the Proposed Decision and Order contained in the Consent Agreement in this matter until issuance and service of a final Decision and Order by the Commission; and
 2. the Final Decision and Order issued and served by the Commission.
- B. EC Decision means Case M.7420 -ZF/TRW Commission decision pursuant to Article 6(1)(b) in conjunction with Article 6(2) of Council Regulation No 139/2004 and Article 57 of the Agreement on the European Economic Area issued on March 12, 2015.
- C. Hold Separate Business means the TRW L&S Business .

II.

IT IS FURTHER ORDERED that during the Hold Separate Period:

A. Respondents shall:

1. Keep the Hold Separate Business separate, apart, and independent of Respondents' other businesses and assets as required by this Hold Separate Order and shall vest the Hold Separate Business with all rights, powers, and authority necessary to conduct its business;
2. Not exercise direction or control over, or influence directly or indirectly, the Hold Separate Business or any of its operations, or the Hold Separate Monitor, except to the extent that Respondents must comply with all regulatory requirements; the extent that to comply

Notwithstanding to the extent that Respondents must comply with all regulatory requirements; the extent that to comply

- B. Respondents shall enter into the agreement with the Hold Separate Monitor, attached as Appendix C to this Hold Separate Order, that shall become effective no later than one (1) day after the date the Acquisition is completed, and that transfers to and confers upon the Hold Separate Monitor all rights, powers, and authority necessary to permit the Hold Separate Monitor to perform his or her duties and responsibilities pursuant to this Hold Separate Order in a manner consistent with the purposes of this Hold Separate Order and the Decision and Order and in consultation with Commission staff; and shall require that the Hold Separate Monitor act in a fiduciary capacity for the benefit of the Commission:
1. The Hold Separate Monitor shall have the responsibility for monitoring the organization of the Hold Separate Business; supervising the management of the Hold Separate Business by TRW Key Employees; maintaining the independence of the Hold Separate Business; and monitoring Respondents' compliance with their obligations pursuant to this Hold Separate Order and the Decision and Order.
 2. The Hold Separate Monitor shall act in a fiduciary capacity for the benefit of the Commission. Subject to all applicable laws and regulations, the Hold Separate Monitor shall have full and complete access to all personnel, books, records, documents, and facilities of the Hold Separate Business, and to any other relevant information as the Hold Separate Monitor may reasonably request including, but not limited to, all documents and records kept by Respondents in the ordinary course of business that relate to the Hold Separate Business. Respondents shall develop such financial or other information as the Hold Separate Monitor may reasonably request.
 3. The Hold Separate Monitor shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Hold Separate Monitor

6. The Hold Separate Monitor shall serve, without bond or other security at

- D. The Hold Separate Monitor shall serve through the Hold Separate Period; *provided, however,* that the Commission may extend or modify this period as may be necessary or appropriate to accomplish the purposes of the Orders.
- E. The Commission may on its own initiative or at the request of the Hold Separate Monitor issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Hold Separate Order.

IV.

IT IS FURTHER ORDERED that:

- A. Respondents shall cooperate with, and take no action to interfere with or impede the ability of: (i) the Hold Separate Monitor, (ii) any Hold Separate Business Employee, or (iii) any Support Services Employee, to perform his or her duties and responsibilities consistent with the terms of this Hold Separate Order.

E. Respondents shall provide each Hold Separate

4. Complying with financial reporting requirements, obtaining legal advice, defending legal claims, conducting investigations, or enforcing actions threatened or brought against the Hold Separate Business, or as required by law. Notwithstanding the above, Respondents may receive aggregate financial and operational information relating to the Hold Separate Business only to the extent necessary to allow Respondents to comply with the requirements and obligations of the laws and regulations of the United States and other countries, to prepare consolidated financial reports, tax returns, reports required by securities laws, and personnel reports, and to comply with this Hold Separate Order or in complying with or as permitted by the Decision and Order. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this Hold Separate Order.

For purposes of this Paragraph V.A., Respondents' employees that provide Support Services or that staff the Hold Separate Business shall be deemed to be performing obligations under this Hold Separate Order.

- B. If access to or disclosure of Material Confidential Information of the Hold Separate Business to Respondents' employees is necessary and permitted under Paragraph V.A. of this Hold Separate Order, Respondents shall:

1. Implement and maintain a process and procedures, as approved by the Hold Separate Monitor, such approval not to be unreasonably withheld, pursuant to which Material Confidential Information of the Hold Separate Business may be disclosed or used only

- a. to or by those named in the Schedule of Material Confidential Information

Respondents, to audit Respondents' networks and systems to verify compliance with this Hold Separate Order.

- D. No Hold Separate Business Employee shall receive or have access to, or use or continue to use, any non-public, confidential information relating to Respondents' businesses (not subject to the Hold Separate Order), except such information as is necessary to maintain and operate the Hold Separate Business.

VI.

IT IS FURTHER ORDERED that, within thirty (30) days after this Hold Separate Order becomes final, and every thirty (30) days thereafter until this Hold Separate Order terminates, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with all provisions of this Hold Separate Order. Respondents shall include in their reports, among other things that are required from time to time, a full description of the efforts being made to comply with this Hold Separate Order.

VII.

IT IS FURTHER ORDERED each Respondent shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of such Respondent;
- B. Any proposed acquisition, merger, or consolidation of such Respondent; and
- C. Any other change in such Respondent including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this Hold Separate Order.

VIII.

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Hold Separate Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days notice to the applicable Respondent made to its principal United States offices, registered office of its United States subsidiary or headquarters address, such Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of such Respondent and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of such Respondent related to compliance with this Hold Separate Order, which copying services shall be provided by such Respondent at the request of the authorized representative(s) of the Commission and at the expense of such Respondent; and
- B. The opportunity to interview officers, directors, or employees of such Respondent, who may have counsel present, related to compliance with this Hold Separate Order.

IX.

IT IS FURTHER ORDERED that this Hold Separate Order shall terminate at the earlier of:

- A. Three (3) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. §.34; or

B. [pursuant to 924-2(on 2)33,r(.R)-3w 5(t)-102om

B.

